



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3245

by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2	
720 ILCS 550/4	from Ch. 56 1/2, par. 704
720 ILCS 550/10	from Ch. 56 1/2, par. 710
720 ILCS 600/3.5	

Amends the Criminal Identification Act. Provides that the Department of State Police and the local law enforcement agency shall automatically expunge, on or before January 1 of each year, the law enforcement records of a person convicted of a civil law violation of possessing 30 grams or less of cannabis or drug paraphernalia possessed by the person arrested on the cannabis charge in the Department's or law enforcement agency's possession or control and which contains the final disposition which pertain to the person when arrested for that offense. Amends the Cannabis Control Act. Provides that the possession of 30 grams or less of cannabis is a civil law violation punishable by a maximum fine of \$125. Amends the Drug Paraphernalia Control Act. Provides that if a person is convicted of 30 grams or less of cannabis, the penalty for possession of any drug paraphernalia seized during the arrest for that offense shall be a civil law violation punishable by a maximum fine of \$125. Provides for distribution of these fines.

LRB099 10759 RLC 31057 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Identification Act is amended by
5 changing Section 5.2 as follows:

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement and sealing.

8 (a) General Provisions.

9 (1) Definitions. In this Act, words and phrases have
10 the meanings set forth in this subsection, except when a
11 particular context clearly requires a different meaning.

12 (A) The following terms shall have the meanings
13 ascribed to them in the Unified Code of Corrections,
14 730 ILCS 5/5-1-2 through 5/5-1-22:

15 (i) Business Offense (730 ILCS 5/5-1-2),

16 (ii) Charge (730 ILCS 5/5-1-3),

17 (iii) Court (730 ILCS 5/5-1-6),

18 (iv) Defendant (730 ILCS 5/5-1-7),

19 (v) Felony (730 ILCS 5/5-1-9),

20 (vi) Imprisonment (730 ILCS 5/5-1-10),

21 (vii) Judgment (730 ILCS 5/5-1-12),

22 (viii) Misdemeanor (730 ILCS 5/5-1-14),

23 (ix) Offense (730 ILCS 5/5-1-15),

- 1 (x) Parole (730 ILCS 5/5-1-16),
2 (xi) Petty Offense (730 ILCS 5/5-1-17),
3 (xii) Probation (730 ILCS 5/5-1-18),
4 (xiii) Sentence (730 ILCS 5/5-1-19),
5 (xiv) Supervision (730 ILCS 5/5-1-21), and
6 (xv) Victim (730 ILCS 5/5-1-22).

7 (B) As used in this Section, "charge not initiated
8 by arrest" means a charge (as defined by 730 ILCS
9 5/5-1-3) brought against a defendant where the
10 defendant is not arrested prior to or as a direct
11 result of the charge.

12 (C) "Conviction" means a judgment of conviction or
13 sentence entered upon a plea of guilty or upon a
14 verdict or finding of guilty of an offense, rendered by
15 a legally constituted jury or by a court of competent
16 jurisdiction authorized to try the case without a jury.
17 An order of supervision successfully completed by the
18 petitioner is not a conviction. An order of qualified
19 probation (as defined in subsection (a)(1)(J))
20 successfully completed by the petitioner is not a
21 conviction. An order of supervision or an order of
22 qualified probation that is terminated
23 unsatisfactorily is a conviction, unless the
24 unsatisfactory termination is reversed, vacated, or
25 modified and the judgment of conviction, if any, is
26 reversed or vacated.

1 (D) "Criminal offense" means a petty offense,
2 business offense, misdemeanor, felony, or municipal
3 ordinance violation (as defined in subsection
4 (a)(1)(H)). As used in this Section, a minor traffic
5 offense (as defined in subsection (a)(1)(G)) shall not
6 be considered a criminal offense.

7 (E) "Expunge" means to physically destroy the
8 records or return them to the petitioner and to
9 obliterate the petitioner's name from any official
10 index or public record, or both. Nothing in this Act
11 shall require the physical destruction of the circuit
12 court file, but such records relating to arrests or
13 charges, or both, ordered expunged shall be impounded
14 as required by subsections (d)(9)(A)(ii) and
15 (d)(9)(B)(ii).

16 (F) As used in this Section, "last sentence" means
17 the sentence, order of supervision, or order of
18 qualified probation (as defined by subsection
19 (a)(1)(J)), for a criminal offense (as defined by
20 subsection (a)(1)(D)) that terminates last in time in
21 any jurisdiction, regardless of whether the petitioner
22 has included the criminal offense for which the
23 sentence or order of supervision or qualified
24 probation was imposed in his or her petition. If
25 multiple sentences, orders of supervision, or orders
26 of qualified probation terminate on the same day and

1 are last in time, they shall be collectively considered
2 the "last sentence" regardless of whether they were
3 ordered to run concurrently.

4 (G) "Minor traffic offense" means a petty offense,
5 business offense, or Class C misdemeanor under the
6 Illinois Vehicle Code or a similar provision of a
7 municipal or local ordinance.

8 (H) "Municipal ordinance violation" means an
9 offense defined by a municipal or local ordinance that
10 is criminal in nature and with which the petitioner was
11 charged or for which the petitioner was arrested and
12 released without charging.

13 (I) "Petitioner" means an adult or a minor
14 prosecuted as an adult who has applied for relief under
15 this Section.

16 (J) "Qualified probation" means an order of
17 probation under Section 10 of the Cannabis Control Act,
18 Section 410 of the Illinois Controlled Substances Act,
19 Section 70 of the Methamphetamine Control and
20 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
21 of the Unified Code of Corrections, Section
22 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as
23 those provisions existed before their deletion by
24 Public Act 89-313), Section 10-102 of the Illinois
25 Alcoholism and Other Drug Dependency Act, Section
26 40-10 of the Alcoholism and Other Drug Abuse and

1 Dependency Act, or Section 10 of the Steroid Control
2 Act. For the purpose of this Section, "successful
3 completion" of an order of qualified probation under
4 Section 10-102 of the Illinois Alcoholism and Other
5 Drug Dependency Act and Section 40-10 of the Alcoholism
6 and Other Drug Abuse and Dependency Act means that the
7 probation was terminated satisfactorily and the
8 judgment of conviction was vacated.

9 (K) "Seal" means to physically and electronically
10 maintain the records, unless the records would
11 otherwise be destroyed due to age, but to make the
12 records unavailable without a court order, subject to
13 the exceptions in Sections 12 and 13 of this Act. The
14 petitioner's name shall also be obliterated from the
15 official index required to be kept by the circuit court
16 clerk under Section 16 of the Clerks of Courts Act, but
17 any index issued by the circuit court clerk before the
18 entry of the order to seal shall not be affected.

19 (L) "Sexual offense committed against a minor"
20 includes but is not limited to the offenses of indecent
21 solicitation of a child or criminal sexual abuse when
22 the victim of such offense is under 18 years of age.

23 (M) "Terminate" as it relates to a sentence or
24 order of supervision or qualified probation includes
25 either satisfactory or unsatisfactory termination of
26 the sentence, unless otherwise specified in this

1 Section.

2 (2) Minor Traffic Offenses. Orders of supervision or
3 convictions for minor traffic offenses shall not affect a
4 petitioner's eligibility to expunge or seal records
5 pursuant to this Section.

6 (2.5) Commencing 180 days after the effective date of
7 this amendatory Act of the 99th General Assembly, the law
8 enforcement agency issuing the citation shall
9 automatically expunge, on or before January 1 and July 1 of
10 each year, the law enforcement records of a person found to
11 have committed a civil law violation of subsection (a) of
12 Section 4 of the Cannabis Control Act or subsection (c) of
13 Section 3.5 of the Drug Paraphernalia Control Act in the
14 law enforcement agency's possession or control and which
15 contains the final satisfactory disposition which pertain
16 to the person issued a citation for that offense. The law
17 enforcement agency shall allow a person to use an Access
18 and Review process, as established in the Department of
19 State Police, for verifying that his or her law enforcement
20 records eligible under this paragraph (2.5) have been
21 expunged as provided in this paragraph. The law enforcement
22 agency shall provide by rule the process for access,
23 review, and automatic expungement. Commencing 180 days
24 after the effective date of this amendatory Act of the 99th
25 General Assembly, the clerk of the circuit court shall
26 automatically expunge, on or before January 1 and July 1 of

1 each year, the court records of a person found in the
2 circuit court to have committed a civil law violation of
3 subsection (a) of Section 4 of the Cannabis Control Act or
4 subsection (c) of Section 3.5 of the Drug Paraphernalia
5 Control Act in the clerk's possession or control and which
6 contains the final satisfactory disposition which pertain
7 to the person issued a citation for any of those offenses.

8 (3) Exclusions. Except as otherwise provided in
9 subsections (b) (5), (b) (6), (b) (8), (e), (e-5), and (e-6)
10 of this Section, the court shall not order:

11 (A) the sealing or expungement of the records of
12 arrests or charges not initiated by arrest that result
13 in an order of supervision for or conviction of: (i)
14 any sexual offense committed against a minor; (ii)
15 Section 11-501 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance; or (iii)
17 Section 11-503 of the Illinois Vehicle Code or a
18 similar provision of a local ordinance, unless the
19 arrest or charge is for a misdemeanor violation of
20 subsection (a) of Section 11-503 or a similar provision
21 of a local ordinance, that occurred prior to the
22 offender reaching the age of 25 years and the offender
23 has no other conviction for violating Section 11-501 or
24 11-503 of the Illinois Vehicle Code or a similar
25 provision of a local ordinance.

26 (B) the sealing or expungement of records of minor

1 traffic offenses (as defined in subsection (a)(1)(G)),
2 unless the petitioner was arrested and released
3 without charging.

4 (C) the sealing of the records of arrests or
5 charges not initiated by arrest which result in an
6 order of supervision or a conviction for the following
7 offenses:

8 (i) offenses included in Article 11 of the
9 Criminal Code of 1961 or the Criminal Code of 2012
10 or a similar provision of a local ordinance, except
11 Section 11-14 of the Criminal Code of 1961 or the
12 Criminal Code of 2012, or a similar provision of a
13 local ordinance;

14 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
15 26-5, or 48-1 of the Criminal Code of 1961 or the
16 Criminal Code of 2012, or a similar provision of a
17 local ordinance;

18 (iii) Sections 12-3.1 or 12-3.2 of the
19 Criminal Code of 1961 or the Criminal Code of 2012,
20 or Section 125 of the Stalking No Contact Order
21 Act, or Section 219 of the Civil No Contact Order
22 Act, or a similar provision of a local ordinance;

23 (iv) offenses which are Class A misdemeanors
24 under the Humane Care for Animals Act; or

25 (v) any offense or attempted offense that
26 would subject a person to registration under the

1 Sex Offender Registration Act.

2 (D) the sealing of the records of an arrest which
3 results in the petitioner being charged with a felony
4 offense or records of a charge not initiated by arrest
5 for a felony offense unless:

6 (i) the charge is amended to a misdemeanor and
7 is otherwise eligible to be sealed pursuant to
8 subsection (c);

9 (ii) the charge is brought along with another
10 charge as a part of one case and the charge results
11 in acquittal, dismissal, or conviction when the
12 conviction was reversed or vacated, and another
13 charge brought in the same case results in a
14 disposition for a misdemeanor offense that is
15 eligible to be sealed pursuant to subsection (c) or
16 a disposition listed in paragraph (i), (iii), or
17 (iv) of this subsection;

18 (iii) the charge results in first offender
19 probation as set forth in subsection (c) (2) (E);

20 (iv) the charge is for a felony offense listed
21 in subsection (c) (2) (F) or the charge is amended to
22 a felony offense listed in subsection (c) (2) (F);

23 (v) the charge results in acquittal,
24 dismissal, or the petitioner's release without
25 conviction; or

26 (vi) the charge results in a conviction, but

1 the conviction was reversed or vacated.

2 (b) Expungement.

3 (1) A petitioner may petition the circuit court to
4 expunge the records of his or her arrests and charges not
5 initiated by arrest when:

6 (A) He or she has never been convicted of a
7 criminal offense; and

8 (B) Each arrest or charge not initiated by arrest
9 sought to be expunged resulted in: (i) acquittal,
10 dismissal, or the petitioner's release without
11 charging, unless excluded by subsection (a)(3)(B);
12 (ii) a conviction which was vacated or reversed, unless
13 excluded by subsection (a)(3)(B); (iii) an order of
14 supervision and such supervision was successfully
15 completed by the petitioner, unless excluded by
16 subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of
17 qualified probation (as defined in subsection
18 (a)(1)(J)) and such probation was successfully
19 completed by the petitioner.

20 (2) Time frame for filing a petition to expunge.

21 (A) When the arrest or charge not initiated by
22 arrest sought to be expunged resulted in an acquittal,
23 dismissal, the petitioner's release without charging,
24 or the reversal or vacation of a conviction, there is
25 no waiting period to petition for the expungement of
26 such records.

1 (B) When the arrest or charge not initiated by
2 arrest sought to be expunged resulted in an order of
3 supervision, successfully completed by the petitioner,
4 the following time frames will apply:

5 (i) Those arrests or charges that resulted in
6 orders of supervision under Section 3-707, 3-708,
7 3-710, or 5-401.3 of the Illinois Vehicle Code or a
8 similar provision of a local ordinance, or under
9 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
10 Code of 1961 or the Criminal Code of 2012, or a
11 similar provision of a local ordinance, shall not
12 be eligible for expungement until 5 years have
13 passed following the satisfactory termination of
14 the supervision.

15 (i-5) Those arrests or charges that resulted
16 in orders of supervision for a misdemeanor
17 violation of subsection (a) of Section 11-503 of
18 the Illinois Vehicle Code or a similar provision of
19 a local ordinance, that occurred prior to the
20 offender reaching the age of 25 years and the
21 offender has no other conviction for violating
22 Section 11-501 or 11-503 of the Illinois Vehicle
23 Code or a similar provision of a local ordinance
24 shall not be eligible for expungement until the
25 petitioner has reached the age of 25 years.

26 (ii) Those arrests or charges that resulted in

1 orders of supervision for any other offenses shall
2 not be eligible for expungement until 2 years have
3 passed following the satisfactory termination of
4 the supervision.

5 (C) When the arrest or charge not initiated by
6 arrest sought to be expunged resulted in an order of
7 qualified probation, successfully completed by the
8 petitioner, such records shall not be eligible for
9 expungement until 5 years have passed following the
10 satisfactory termination of the probation.

11 (3) Those records maintained by the Department for
12 persons arrested prior to their 17th birthday shall be
13 expunged as provided in Section 5-915 of the Juvenile Court
14 Act of 1987.

15 (4) Whenever a person has been arrested for or
16 convicted of any offense, in the name of a person whose
17 identity he or she has stolen or otherwise come into
18 possession of, the aggrieved person from whom the identity
19 was stolen or otherwise obtained without authorization,
20 upon learning of the person having been arrested using his
21 or her identity, may, upon verified petition to the chief
22 judge of the circuit wherein the arrest was made, have a
23 court order entered nunc pro tunc by the Chief Judge to
24 correct the arrest record, conviction record, if any, and
25 all official records of the arresting authority, the
26 Department, other criminal justice agencies, the

1 prosecutor, and the trial court concerning such arrest, if
2 any, by removing his or her name from all such records in
3 connection with the arrest and conviction, if any, and by
4 inserting in the records the name of the offender, if known
5 or ascertainable, in lieu of the aggrieved's name. The
6 records of the circuit court clerk shall be sealed until
7 further order of the court upon good cause shown and the
8 name of the aggrieved person obliterated on the official
9 index required to be kept by the circuit court clerk under
10 Section 16 of the Clerks of Courts Act, but the order shall
11 not affect any index issued by the circuit court clerk
12 before the entry of the order. Nothing in this Section
13 shall limit the Department of State Police or other
14 criminal justice agencies or prosecutors from listing
15 under an offender's name the false names he or she has
16 used.

17 (5) Whenever a person has been convicted of criminal
18 sexual assault, aggravated criminal sexual assault,
19 predatory criminal sexual assault of a child, criminal
20 sexual abuse, or aggravated criminal sexual abuse, the
21 victim of that offense may request that the State's
22 Attorney of the county in which the conviction occurred
23 file a verified petition with the presiding trial judge at
24 the petitioner's trial to have a court order entered to
25 seal the records of the circuit court clerk in connection
26 with the proceedings of the trial court concerning that

1 offense. However, the records of the arresting authority
2 and the Department of State Police concerning the offense
3 shall not be sealed. The court, upon good cause shown,
4 shall make the records of the circuit court clerk in
5 connection with the proceedings of the trial court
6 concerning the offense available for public inspection.

7 (6) If a conviction has been set aside on direct review
8 or on collateral attack and the court determines by clear
9 and convincing evidence that the petitioner was factually
10 innocent of the charge, the court that finds the petitioner
11 factually innocent of the charge shall enter an expungement
12 order for the conviction for which the petitioner has been
13 determined to be innocent as provided in subsection (b) of
14 Section 5-5-4 of the Unified Code of Corrections.

15 (7) Nothing in this Section shall prevent the
16 Department of State Police from maintaining all records of
17 any person who is admitted to probation upon terms and
18 conditions and who fulfills those terms and conditions
19 pursuant to Section 10 of the Cannabis Control Act, Section
20 410 of the Illinois Controlled Substances Act, Section 70
21 of the Methamphetamine Control and Community Protection
22 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
23 Corrections, Section 12-4.3 or subdivision (b)(1) of
24 Section 12-3.05 of the Criminal Code of 1961 or the
25 Criminal Code of 2012, Section 10-102 of the Illinois
26 Alcoholism and Other Drug Dependency Act, Section 40-10 of

1 the Alcoholism and Other Drug Abuse and Dependency Act, or
2 Section 10 of the Steroid Control Act.

3 (8) If the petitioner has been granted a certificate of
4 innocence under Section 2-702 of the Code of Civil
5 Procedure, the court that grants the certificate of
6 innocence shall also enter an order expunging the
7 conviction for which the petitioner has been determined to
8 be innocent as provided in subsection (h) of Section 2-702
9 of the Code of Civil Procedure.

10 (c) Sealing.

11 (1) Applicability. Notwithstanding any other provision
12 of this Act to the contrary, and cumulative with any rights
13 to expungement of criminal records, this subsection
14 authorizes the sealing of criminal records of adults and of
15 minors prosecuted as adults.

16 (2) Eligible Records. The following records may be
17 sealed:

18 (A) All arrests resulting in release without
19 charging;

20 (B) Arrests or charges not initiated by arrest
21 resulting in acquittal, dismissal, or conviction when
22 the conviction was reversed or vacated, except as
23 excluded by subsection (a) (3) (B);

24 (C) Arrests or charges not initiated by arrest
25 resulting in orders of supervision, including orders
26 of supervision for municipal ordinance violations,

1 successfully completed by the petitioner, unless
2 excluded by subsection (a) (3);

3 (D) Arrests or charges not initiated by arrest
4 resulting in convictions, including convictions on
5 municipal ordinance violations, unless excluded by
6 subsection (a) (3);

7 (E) Arrests or charges not initiated by arrest
8 resulting in orders of first offender probation under
9 Section 10 of the Cannabis Control Act, Section 410 of
10 the Illinois Controlled Substances Act, Section 70 of
11 the Methamphetamine Control and Community Protection
12 Act, or Section 5-6-3.3 of the Unified Code of
13 Corrections; and

14 (F) Arrests or charges not initiated by arrest
15 resulting in felony convictions for the following
16 offenses:

17 (i) Class 4 felony convictions for:

18 Prostitution under Section 11-14 of the
19 Criminal Code of 1961 or the Criminal Code of
20 2012.

21 Possession of cannabis under Section 4 of
22 the Cannabis Control Act.

23 Possession of a controlled substance under
24 Section 402 of the Illinois Controlled
25 Substances Act.

26 Offenses under the Methamphetamine

1 Precursor Control Act.

2 Offenses under the Steroid Control Act.

3 Theft under Section 16-1 of the Criminal
4 Code of 1961 or the Criminal Code of 2012.

5 Retail theft under Section 16A-3 or
6 paragraph (a) of 16-25 of the Criminal Code of
7 1961 or the Criminal Code of 2012.

8 Deceptive practices under Section 17-1 of
9 the Criminal Code of 1961 or the Criminal Code
10 of 2012.

11 Forgery under Section 17-3 of the Criminal
12 Code of 1961 or the Criminal Code of 2012.

13 Possession of burglary tools under Section
14 19-2 of the Criminal Code of 1961 or the
15 Criminal Code of 2012.

16 (ii) Class 3 felony convictions for:

17 Theft under Section 16-1 of the Criminal
18 Code of 1961 or the Criminal Code of 2012.

19 Retail theft under Section 16A-3 or
20 paragraph (a) of 16-25 of the Criminal Code of
21 1961 or the Criminal Code of 2012.

22 Deceptive practices under Section 17-1 of
23 the Criminal Code of 1961 or the Criminal Code
24 of 2012.

25 Forgery under Section 17-3 of the Criminal
26 Code of 1961 or the Criminal Code of 2012.

1 Possession with intent to manufacture or
2 deliver a controlled substance under Section
3 401 of the Illinois Controlled Substances Act.

4 (3) When Records Are Eligible to Be Sealed. Records
5 identified as eligible under subsection (c)(2) may be
6 sealed as follows:

7 (A) Records identified as eligible under
8 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
9 time.

10 (B) Records identified as eligible under
11 subsection (c)(2)(C) may be sealed (i) 3 years after
12 the termination of petitioner's last sentence (as
13 defined in subsection (a)(1)(F)) if the petitioner has
14 never been convicted of a criminal offense (as defined
15 in subsection (a)(1)(D)); or (ii) 4 years after the
16 termination of the petitioner's last sentence (as
17 defined in subsection (a)(1)(F)) if the petitioner has
18 ever been convicted of a criminal offense (as defined
19 in subsection (a)(1)(D)).

20 (C) Records identified as eligible under
21 subsections (c)(2)(D), (c)(2)(E), and (c)(2)(F) may be
22 sealed 4 years after the termination of the
23 petitioner's last sentence (as defined in subsection
24 (a)(1)(F)).

25 (D) Records identified in subsection
26 (a)(3)(A)(iii) may be sealed after the petitioner has

1 reached the age of 25 years.

2 (4) Subsequent felony convictions. A person may not
3 have subsequent felony conviction records sealed as
4 provided in this subsection (c) if he or she is convicted
5 of any felony offense after the date of the sealing of
6 prior felony convictions as provided in this subsection
7 (c). The court may, upon conviction for a subsequent felony
8 offense, order the unsealing of prior felony conviction
9 records previously ordered sealed by the court.

10 (5) Notice of eligibility for sealing. Upon entry of a
11 disposition for an eligible record under this subsection
12 (c), the petitioner shall be informed by the court of the
13 right to have the records sealed and the procedures for the
14 sealing of the records.

15 (d) Procedure. The following procedures apply to
16 expungement under subsections (b), (e), and (e-6) and sealing
17 under subsections (c) and (e-5):

18 (1) Filing the petition. Upon becoming eligible to
19 petition for the expungement or sealing of records under
20 this Section, the petitioner shall file a petition
21 requesting the expungement or sealing of records with the
22 clerk of the court where the arrests occurred or the
23 charges were brought, or both. If arrests occurred or
24 charges were brought in multiple jurisdictions, a petition
25 must be filed in each such jurisdiction. The petitioner
26 shall pay the applicable fee, if not waived.

1 (2) Contents of petition. The petition shall be
2 verified and shall contain the petitioner's name, date of
3 birth, current address and, for each arrest or charge not
4 initiated by arrest sought to be sealed or expunged, the
5 case number, the date of arrest (if any), the identity of
6 the arresting authority, and such other information as the
7 court may require. During the pendency of the proceeding,
8 the petitioner shall promptly notify the circuit court
9 clerk of any change of his or her address. If the
10 petitioner has received a certificate of eligibility for
11 sealing from the Prisoner Review Board under paragraph (10)
12 of subsection (a) of Section 3-3-2 of the Unified Code of
13 Corrections, the certificate shall be attached to the
14 petition.

15 (3) Drug test. The petitioner must attach to the
16 petition proof that the petitioner has passed a test taken
17 within 30 days before the filing of the petition showing
18 the absence within his or her body of all illegal
19 substances as defined by the Illinois Controlled
20 Substances Act, the Methamphetamine Control and Community
21 Protection Act, and the Cannabis Control Act if he or she
22 is petitioning to:

23 (A) seal felony records under clause (c) (2) (E);

24 (B) seal felony records for a violation of the
25 Illinois Controlled Substances Act, the
26 Methamphetamine Control and Community Protection Act,

1 or the Cannabis Control Act under clause (c) (2) (F);

2 (C) seal felony records under subsection (e-5); or

3 (D) expunge felony records of a qualified
4 probation under clause (b) (1) (B) (iv).

5 (4) Service of petition. The circuit court clerk shall
6 promptly serve a copy of the petition and documentation to
7 support the petition under subsection (e-5) or (e-6) on the
8 State's Attorney or prosecutor charged with the duty of
9 prosecuting the offense, the Department of State Police,
10 the arresting agency and the chief legal officer of the
11 unit of local government effecting the arrest.

12 (5) Objections.

13 (A) Any party entitled to notice of the petition
14 may file an objection to the petition. All objections
15 shall be in writing, shall be filed with the circuit
16 court clerk, and shall state with specificity the basis
17 of the objection. Whenever a person who has been
18 convicted of an offense is granted a pardon by the
19 Governor which specifically authorizes expungement, an
20 objection to the petition may not be filed.

21 (B) Objections to a petition to expunge or seal
22 must be filed within 60 days of the date of service of
23 the petition.

24 (6) Entry of order.

25 (A) The Chief Judge of the circuit wherein the
26 charge was brought, any judge of that circuit

1 designated by the Chief Judge, or in counties of less
2 than 3,000,000 inhabitants, the presiding trial judge
3 at the petitioner's trial, if any, shall rule on the
4 petition to expunge or seal as set forth in this
5 subsection (d) (6).

6 (B) Unless the State's Attorney or prosecutor, the
7 Department of State Police, the arresting agency, or
8 the chief legal officer files an objection to the
9 petition to expunge or seal within 60 days from the
10 date of service of the petition, the court shall enter
11 an order granting or denying the petition.

12 (7) Hearings. If an objection is filed, the court shall
13 set a date for a hearing and notify the petitioner and all
14 parties entitled to notice of the petition of the hearing
15 date at least 30 days prior to the hearing. Prior to the
16 hearing, the State's Attorney shall consult with the
17 Department as to the appropriateness of the relief sought
18 in the petition to expunge or seal. At the hearing, the
19 court shall hear evidence on whether the petition should or
20 should not be granted, and shall grant or deny the petition
21 to expunge or seal the records based on the evidence
22 presented at the hearing. The court may consider the
23 following:

24 (A) the strength of the evidence supporting the
25 defendant's conviction;

26 (B) the reasons for retention of the conviction

1 records by the State;

2 (C) the petitioner's age, criminal record history,
3 and employment history;

4 (D) the period of time between the petitioner's
5 arrest on the charge resulting in the conviction and
6 the filing of the petition under this Section; and

7 (E) the specific adverse consequences the
8 petitioner may be subject to if the petition is denied.

9 (8) Service of order. After entering an order to
10 expunge or seal records, the court must provide copies of
11 the order to the Department, in a form and manner
12 prescribed by the Department, to the petitioner, to the
13 State's Attorney or prosecutor charged with the duty of
14 prosecuting the offense, to the arresting agency, to the
15 chief legal officer of the unit of local government
16 effecting the arrest, and to such other criminal justice
17 agencies as may be ordered by the court.

18 (9) Implementation of order.

19 (A) Upon entry of an order to expunge records
20 pursuant to (b) (2) (A) or (b) (2) (B) (ii), or both:

21 (i) the records shall be expunged (as defined
22 in subsection (a) (1) (E)) by the arresting agency,
23 the Department, and any other agency as ordered by
24 the court, within 60 days of the date of service of
25 the order, unless a motion to vacate, modify, or
26 reconsider the order is filed pursuant to

1 paragraph (12) of subsection (d) of this Section;

2 (ii) the records of the circuit court clerk
3 shall be impounded until further order of the court
4 upon good cause shown and the name of the
5 petitioner obliterated on the official index
6 required to be kept by the circuit court clerk
7 under Section 16 of the Clerks of Courts Act, but
8 the order shall not affect any index issued by the
9 circuit court clerk before the entry of the order;
10 and

11 (iii) in response to an inquiry for expunged
12 records, the court, the Department, or the agency
13 receiving such inquiry, shall reply as it does in
14 response to inquiries when no records ever
15 existed.

16 (B) Upon entry of an order to expunge records
17 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

18 (i) the records shall be expunged (as defined
19 in subsection (a) (1) (E)) by the arresting agency
20 and any other agency as ordered by the court,
21 within 60 days of the date of service of the order,
22 unless a motion to vacate, modify, or reconsider
23 the order is filed pursuant to paragraph (12) of
24 subsection (d) of this Section;

25 (ii) the records of the circuit court clerk
26 shall be impounded until further order of the court

1 upon good cause shown and the name of the
2 petitioner obliterated on the official index
3 required to be kept by the circuit court clerk
4 under Section 16 of the Clerks of Courts Act, but
5 the order shall not affect any index issued by the
6 circuit court clerk before the entry of the order;

7 (iii) the records shall be impounded by the
8 Department within 60 days of the date of service of
9 the order as ordered by the court, unless a motion
10 to vacate, modify, or reconsider the order is filed
11 pursuant to paragraph (12) of subsection (d) of
12 this Section;

13 (iv) records impounded by the Department may
14 be disseminated by the Department only as required
15 by law or to the arresting authority, the State's
16 Attorney, and the court upon a later arrest for the
17 same or a similar offense or for the purpose of
18 sentencing for any subsequent felony, and to the
19 Department of Corrections upon conviction for any
20 offense; and

21 (v) in response to an inquiry for such records
22 from anyone not authorized by law to access such
23 records, the court, the Department, or the agency
24 receiving such inquiry shall reply as it does in
25 response to inquiries when no records ever
26 existed.

1 (B-5) Upon entry of an order to expunge records
2 under subsection (e-6):

3 (i) the records shall be expunged (as defined
4 in subsection (a)(1)(E)) by the arresting agency
5 and any other agency as ordered by the court,
6 within 60 days of the date of service of the order,
7 unless a motion to vacate, modify, or reconsider
8 the order is filed under paragraph (12) of
9 subsection (d) of this Section;

10 (ii) the records of the circuit court clerk
11 shall be impounded until further order of the court
12 upon good cause shown and the name of the
13 petitioner obliterated on the official index
14 required to be kept by the circuit court clerk
15 under Section 16 of the Clerks of Courts Act, but
16 the order shall not affect any index issued by the
17 circuit court clerk before the entry of the order;

18 (iii) the records shall be impounded by the
19 Department within 60 days of the date of service of
20 the order as ordered by the court, unless a motion
21 to vacate, modify, or reconsider the order is filed
22 under paragraph (12) of subsection (d) of this
23 Section;

24 (iv) records impounded by the Department may
25 be disseminated by the Department only as required
26 by law or to the arresting authority, the State's

1 Attorney, and the court upon a later arrest for the
2 same or a similar offense or for the purpose of
3 sentencing for any subsequent felony, and to the
4 Department of Corrections upon conviction for any
5 offense; and

6 (v) in response to an inquiry for these records
7 from anyone not authorized by law to access the
8 records, the court, the Department, or the agency
9 receiving the inquiry shall reply as it does in
10 response to inquiries when no records ever
11 existed.

12 (C) Upon entry of an order to seal records under
13 subsection (c), the arresting agency, any other agency
14 as ordered by the court, the Department, and the court
15 shall seal the records (as defined in subsection
16 (a)(1)(K)). In response to an inquiry for such records
17 from anyone not authorized by law to access such
18 records, the court, the Department, or the agency
19 receiving such inquiry shall reply as it does in
20 response to inquiries when no records ever existed.

21 (D) The Department shall send written notice to the
22 petitioner of its compliance with each order to expunge
23 or seal records within 60 days of the date of service
24 of that order or, if a motion to vacate, modify, or
25 reconsider is filed, within 60 days of service of the
26 order resolving the motion, if that order requires the

1 Department to expunge or seal records. In the event of
2 an appeal from the circuit court order, the Department
3 shall send written notice to the petitioner of its
4 compliance with an Appellate Court or Supreme Court
5 judgment to expunge or seal records within 60 days of
6 the issuance of the court's mandate. The notice is not
7 required while any motion to vacate, modify, or
8 reconsider, or any appeal or petition for
9 discretionary appellate review, is pending.

10 (10) Fees. The Department may charge the petitioner a
11 fee equivalent to the cost of processing any order to
12 expunge or seal records. Notwithstanding any provision of
13 the Clerks of Courts Act to the contrary, the circuit court
14 clerk may charge a fee equivalent to the cost associated
15 with the sealing or expungement of records by the circuit
16 court clerk. From the total filing fee collected for the
17 petition to seal or expunge, the circuit court clerk shall
18 deposit \$10 into the Circuit Court Clerk Operation and
19 Administrative Fund, to be used to offset the costs
20 incurred by the circuit court clerk in performing the
21 additional duties required to serve the petition to seal or
22 expunge on all parties. The circuit court clerk shall
23 collect and forward the Department of State Police portion
24 of the fee to the Department and it shall be deposited in
25 the State Police Services Fund.

26 (11) Final Order. No court order issued under the

1 expungement or sealing provisions of this Section shall
2 become final for purposes of appeal until 30 days after
3 service of the order on the petitioner and all parties
4 entitled to notice of the petition.

5 (12) Motion to Vacate, Modify, or Reconsider. Under
6 Section 2-1203 of the Code of Civil Procedure, the
7 petitioner or any party entitled to notice may file a
8 motion to vacate, modify, or reconsider the order granting
9 or denying the petition to expunge or seal within 60 days
10 of service of the order. If filed more than 60 days after
11 service of the order, a petition to vacate, modify, or
12 reconsider shall comply with subsection (c) of Section
13 2-1401 of the Code of Civil Procedure. Upon filing of a
14 motion to vacate, modify, or reconsider, notice of the
15 motion shall be served upon the petitioner and all parties
16 entitled to notice of the petition.

17 (13) Effect of Order. An order granting a petition
18 under the expungement or sealing provisions of this Section
19 shall not be considered void because it fails to comply
20 with the provisions of this Section or because of any error
21 asserted in a motion to vacate, modify, or reconsider. The
22 circuit court retains jurisdiction to determine whether
23 the order is voidable and to vacate, modify, or reconsider
24 its terms based on a motion filed under paragraph (12) of
25 this subsection (d).

26 (14) Compliance with Order Granting Petition to Seal

1 Records. Unless a court has entered a stay of an order
2 granting a petition to seal, all parties entitled to notice
3 of the petition must fully comply with the terms of the
4 order within 60 days of service of the order even if a
5 party is seeking relief from the order through a motion
6 filed under paragraph (12) of this subsection (d) or is
7 appealing the order.

8 (15) Compliance with Order Granting Petition to
9 Expunge Records. While a party is seeking relief from the
10 order granting the petition to expunge through a motion
11 filed under paragraph (12) of this subsection (d) or is
12 appealing the order, and unless a court has entered a stay
13 of that order, the parties entitled to notice of the
14 petition must seal, but need not expunge, the records until
15 there is a final order on the motion for relief or, in the
16 case of an appeal, the issuance of that court's mandate.

17 (16) The changes to this subsection (d) made by Public
18 Act 98-163 apply to all petitions pending on August 5, 2013
19 (the effective date of Public Act 98-163) and to all orders
20 ruling on a petition to expunge or seal on or after August
21 5, 2013 (the effective date of Public Act 98-163).

22 (e) Whenever a person who has been convicted of an offense
23 is granted a pardon by the Governor which specifically
24 authorizes expungement, he or she may, upon verified petition
25 to the Chief Judge of the circuit where the person had been
26 convicted, any judge of the circuit designated by the Chief

1 Judge, or in counties of less than 3,000,000 inhabitants, the
2 presiding trial judge at the defendant's trial, have a court
3 order entered expunging the record of arrest from the official
4 records of the arresting authority and order that the records
5 of the circuit court clerk and the Department be sealed until
6 further order of the court upon good cause shown or as
7 otherwise provided herein, and the name of the defendant
8 obliterated from the official index requested to be kept by the
9 circuit court clerk under Section 16 of the Clerks of Courts
10 Act in connection with the arrest and conviction for the
11 offense for which he or she had been pardoned but the order
12 shall not affect any index issued by the circuit court clerk
13 before the entry of the order. All records sealed by the
14 Department may be disseminated by the Department only to the
15 arresting authority, the State's Attorney, and the court upon a
16 later arrest for the same or similar offense or for the purpose
17 of sentencing for any subsequent felony. Upon conviction for
18 any subsequent offense, the Department of Corrections shall
19 have access to all sealed records of the Department pertaining
20 to that individual. Upon entry of the order of expungement, the
21 circuit court clerk shall promptly mail a copy of the order to
22 the person who was pardoned.

23 (e-5) Whenever a person who has been convicted of an
24 offense is granted a certificate of eligibility for sealing by
25 the Prisoner Review Board which specifically authorizes
26 sealing, he or she may, upon verified petition to the Chief

1 Judge of the circuit where the person had been convicted, any
2 judge of the circuit designated by the Chief Judge, or in
3 counties of less than 3,000,000 inhabitants, the presiding
4 trial judge at the petitioner's trial, have a court order
5 entered sealing the record of arrest from the official records
6 of the arresting authority and order that the records of the
7 circuit court clerk and the Department be sealed until further
8 order of the court upon good cause shown or as otherwise
9 provided herein, and the name of the petitioner obliterated
10 from the official index requested to be kept by the circuit
11 court clerk under Section 16 of the Clerks of Courts Act in
12 connection with the arrest and conviction for the offense for
13 which he or she had been granted the certificate but the order
14 shall not affect any index issued by the circuit court clerk
15 before the entry of the order. All records sealed by the
16 Department may be disseminated by the Department only as
17 required by this Act or to the arresting authority, a law
18 enforcement agency, the State's Attorney, and the court upon a
19 later arrest for the same or similar offense or for the purpose
20 of sentencing for any subsequent felony. Upon conviction for
21 any subsequent offense, the Department of Corrections shall
22 have access to all sealed records of the Department pertaining
23 to that individual. Upon entry of the order of sealing, the
24 circuit court clerk shall promptly mail a copy of the order to
25 the person who was granted the certificate of eligibility for
26 sealing.

1 (e-6) Whenever a person who has been convicted of an
2 offense is granted a certificate of eligibility for expungement
3 by the Prisoner Review Board which specifically authorizes
4 expungement, he or she may, upon verified petition to the Chief
5 Judge of the circuit where the person had been convicted, any
6 judge of the circuit designated by the Chief Judge, or in
7 counties of less than 3,000,000 inhabitants, the presiding
8 trial judge at the petitioner's trial, have a court order
9 entered expunging the record of arrest from the official
10 records of the arresting authority and order that the records
11 of the circuit court clerk and the Department be sealed until
12 further order of the court upon good cause shown or as
13 otherwise provided herein, and the name of the petitioner
14 obliterated from the official index requested to be kept by the
15 circuit court clerk under Section 16 of the Clerks of Courts
16 Act in connection with the arrest and conviction for the
17 offense for which he or she had been granted the certificate
18 but the order shall not affect any index issued by the circuit
19 court clerk before the entry of the order. All records sealed
20 by the Department may be disseminated by the Department only as
21 required by this Act or to the arresting authority, a law
22 enforcement agency, the State's Attorney, and the court upon a
23 later arrest for the same or similar offense or for the purpose
24 of sentencing for any subsequent felony. Upon conviction for
25 any subsequent offense, the Department of Corrections shall
26 have access to all expunged records of the Department

1 pertaining to that individual. Upon entry of the order of
2 expungement, the circuit court clerk shall promptly mail a copy
3 of the order to the person who was granted the certificate of
4 eligibility for expungement.

5 (f) Subject to available funding, the Illinois Department
6 of Corrections shall conduct a study of the impact of sealing,
7 especially on employment and recidivism rates, utilizing a
8 random sample of those who apply for the sealing of their
9 criminal records under Public Act 93-211. At the request of the
10 Illinois Department of Corrections, records of the Illinois
11 Department of Employment Security shall be utilized as
12 appropriate to assist in the study. The study shall not
13 disclose any data in a manner that would allow the
14 identification of any particular individual or employing unit.
15 The study shall be made available to the General Assembly no
16 later than September 1, 2010.

17 (Source: P.A. 97-443, eff. 8-19-11; 97-698, eff. 1-1-13;
18 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.
19 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150,
20 eff. 1-25-13; 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
21 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,
22 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;
23 98-1009, eff. 1-1-15; revised 9-30-14.)

24 Section 10. The Cannabis Control Act is amended by changing
25 Sections 4 and 10 as follows:

1 (720 ILCS 550/4) (from Ch. 56 1/2, par. 704)

2 Sec. 4. It is unlawful for any person knowingly to possess
3 cannabis. Any person who violates this section with respect to:

4 (a) not more than 30 ~~2.5~~ grams of any substance
5 containing cannabis is guilty of a civil law violation
6 punishable by a maximum fine of \$125. The proceeds of the
7 fine shall be payable to the clerk of the circuit court who
8 shall deposit the moneys from the fine into a special fund
9 in the county treasury. Within 30 days after the deposit of
10 the fine into the special fund, the county treasurer shall
11 distribute the proceeds of the fine as follows:

12 (1) \$10 of the fine to the circuit clerk and \$10 of
13 the fine to the law enforcement agency that issued the
14 citation; the proceeds of each \$10 fine distributed to
15 the circuit clerk and each \$10 fine distributed to the
16 law enforcement agency that issued the citation for the
17 violation shall be used to defer the cost of automatic
18 expungements under paragraph (2.5) of subsection (a)
19 of Section 5.2 of the Criminal Identification Act;

20 (2) \$15 to the county to fund drug addiction
21 services; and

22 (3) the remainder of the fine to the law
23 enforcement agency that issued the citation for the
24 violation ~~Class C misdemeanor;~~

25 (b) (blank); ~~more than 2.5 grams but not more than 10~~

1 ~~grams of any substance containing cannabis is guilty of a~~
2 ~~Class B misdemeanor;~~

3 (c) (blank); ~~more than 10 grams but not more than 30~~
4 ~~grams of any substance containing cannabis is guilty of a~~
5 ~~Class A misdemeanor; provided, that if any offense under~~
6 ~~this subsection (c) is a subsequent offense, the offender~~
7 ~~shall be guilty of a Class 4 felony;~~

8 (d) more than 30 grams but not more than 500 grams of
9 any substance containing cannabis is guilty of a Class 4
10 felony; provided that if any offense under this subsection
11 (d) is a subsequent offense, the offender shall be guilty
12 of a Class 3 felony;

13 (e) more than 500 grams but not more than 2,000 grams
14 of any substance containing cannabis is guilty of a Class 3
15 felony;

16 (f) more than 2,000 grams but not more than 5,000 grams
17 of any substance containing cannabis is guilty of a Class 2
18 felony;

19 (g) more than 5,000 grams of any substance containing
20 cannabis is guilty of a Class 1 felony.

21 (Source: P.A. 90-397, eff. 8-15-97.)

22 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

23 Sec. 10. (a) Whenever any person who has not previously
24 been convicted of, or placed on probation or court supervision
25 for, any offense under this Act or any law of the United States

1 or of any State relating to cannabis, or controlled substances
2 as defined in the Illinois Controlled Substances Act, pleads
3 guilty to or is found guilty of violating Sections 4(a), ~~4(b),~~
4 ~~4(e),~~ 5(a), 5(b), 5(c) or 8 of this Act, the court may, without
5 entering a judgment and with the consent of such person,
6 sentence him to probation.

7 (b) When a person is placed on probation, the court shall
8 enter an order specifying a period of probation of 24 months,
9 and shall defer further proceedings in the case until the
10 conclusion of the period or until the filing of a petition
11 alleging violation of a term or condition of probation.

12 (c) The conditions of probation shall be that the person:
13 (1) not violate any criminal statute of any jurisdiction; (2)
14 refrain from possession of a firearm or other dangerous weapon;
15 (3) submit to periodic drug testing at a time and in a manner
16 as ordered by the court, but no less than 3 times during the
17 period of the probation, with the cost of the testing to be
18 paid by the probationer; and (4) perform no less than 30 hours
19 of community service, provided community service is available
20 in the jurisdiction and is funded and approved by the county
21 board.

22 (d) The court may, in addition to other conditions, require
23 that the person:

24 (1) make a report to and appear in person before or
25 participate with the court or such courts, person, or
26 social service agency as directed by the court in the order

1 of probation;

2 (2) pay a fine and costs;

3 (3) work or pursue a course of study or vocational
4 training;

5 (4) undergo medical or psychiatric treatment; or
6 treatment for drug addiction or alcoholism;

7 (5) attend or reside in a facility established for the
8 instruction or residence of defendants on probation;

9 (6) support his dependents;

10 (7) refrain from possessing a firearm or other
11 dangerous weapon;

12 (7-5) refrain from having in his or her body the
13 presence of any illicit drug prohibited by the Cannabis
14 Control Act, the Illinois Controlled Substances Act, or the
15 Methamphetamine Control and Community Protection Act,
16 unless prescribed by a physician, and submit samples of his
17 or her blood or urine or both for tests to determine the
18 presence of any illicit drug;

19 (8) and in addition, if a minor:

20 (i) reside with his parents or in a foster home;

21 (ii) attend school;

22 (iii) attend a non-residential program for youth;

23 (iv) contribute to his own support at home or in a
24 foster home.

25 (e) Upon violation of a term or condition of probation, the
26 court may enter a judgment on its original finding of guilt and

1 proceed as otherwise provided.

2 (f) Upon fulfillment of the terms and conditions of
3 probation, the court shall discharge such person and dismiss
4 the proceedings against him.

5 (g) A disposition of probation is considered to be a
6 conviction for the purposes of imposing the conditions of
7 probation and for appeal, however, discharge and dismissal
8 under this Section is not a conviction for purposes of
9 disqualification or disabilities imposed by law upon
10 conviction of a crime (including the additional penalty imposed
11 for subsequent offenses under Section ~~4(e)~~, 4(d), 5(c) or 5(d)
12 of this Act).

13 (h) Discharge and dismissal under this Section, Section 410
14 of the Illinois Controlled Substances Act, Section 70 of the
15 Methamphetamine Control and Community Protection Act, Section
16 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections, or
17 subsection (c) of Section 11-14 of the Criminal Code of 1961 or
18 the Criminal Code of 2012 may occur only once with respect to
19 any person.

20 (i) If a person is convicted of an offense under this Act,
21 the Illinois Controlled Substances Act, or the Methamphetamine
22 Control and Community Protection Act within 5 years subsequent
23 to a discharge and dismissal under this Section, the discharge
24 and dismissal under this Section shall be admissible in the
25 sentencing proceeding for that conviction as a factor in
26 aggravation.

1 (Source: P.A. 97-1118, eff. 1-1-13; 97-1150, eff. 1-25-13;
2 98-164, eff. 1-1-14.)

3 Section 15. The Drug Paraphernalia Control Act is amended
4 by changing Section 3.5 as follows:

5 (720 ILCS 600/3.5)

6 Sec. 3.5. Possession of drug paraphernalia.

7 (a) A person who knowingly possesses an item of drug
8 paraphernalia with the intent to use it in ingesting, inhaling,
9 or otherwise introducing cannabis or a controlled substance
10 into the human body, or in preparing cannabis or a controlled
11 substance for that use, is guilty of a Class A misdemeanor for
12 which the court shall impose a minimum fine of \$750 in addition
13 to any other penalty prescribed for a Class A misdemeanor. This
14 subsection (a) does not apply to a person who is legally
15 authorized to possess hypodermic syringes or needles under the
16 Hypodermic Syringes and Needles Act.

17 (b) In determining intent under subsection (a), the trier
18 of fact may take into consideration the proximity of the
19 cannabis or controlled substances to drug paraphernalia or the
20 presence of cannabis or a controlled substance on the drug
21 paraphernalia.

22 (c) If a person found to have committed a violation of
23 subsection (a) of Section 4 of the Cannabis Control Act, the
24 penalty for possession of any drug paraphernalia seized during

1 the violation for that offense shall be a civil law violation
2 punishable by a maximum fine of \$125. The proceeds of the fine
3 shall be payable to the clerk of the circuit court who shall
4 deposit the moneys from the fine into a special fund in the
5 county treasury. Within 30 days after the deposit of the fine
6 into the special fund, the county treasurer shall distribute
7 the proceeds of the fine as follows:

8 (1) \$10 of the fine to the circuit clerk and \$10 of the
9 fine to the law enforcement agency that issued the
10 citation; the proceeds of each \$10 fine distributed to the
11 circuit clerk and each \$10 fine distributed to the law
12 enforcement agency that issued the citation for the
13 violation shall be used to defer the cost of automatic
14 expungements under paragraph (2.5) of subsection (a) of
15 Section 5.2 of the Criminal Identification Act;

16 (2) \$15 to the county to fund drug addiction services;
17 and

18 (3) the remainder of the fine to the law enforcement
19 agency that issued the citation for the violation.

20 (Source: P.A. 93-392, eff. 7-25-03.)