



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4424

Introduced 2/3/2020, by Rep. Tony McCombie

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that the court may not order the sealing or expungement of the records of arrests or charges not initiated by arrest that result in an order of supervision for or conviction of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof (DUI) under the Illinois Vehicle Code or a similar provision of a local ordinance; except that the court may order the sealing of one misdemeanor record of arrest or charge not initiated by arrest that results in an order of supervision for or conviction of DUI under the Illinois Vehicle Code or a similar provision of a local ordinance per petitioner if each of the following conditions have been met: (1) the petitioner has not previously been convicted of or placed on supervision for DUI under the Illinois Vehicle Code or a similar provision of a local ordinance; (2) 10 or more years have passed since the termination of the petitioner's sentence; (3) during the commission of the violation, the petitioner did not proximately cause death or personal injury to any other person or damage the property of any other person; (4) the petitioner has no other misdemeanor or felony driving charge on his or her driving abstract; and (5) the judge examined the driving abstract of the petitioner petitioning to have his or her records sealed under this provision and made a finding entered on the record that the petitioner did not enter into a plea agreement on a lesser charge other than a DUI under the Illinois Vehicle Code or a similar provision of a local ordinance, and the facts did not support that the petitioner had previously committed a DUI under the Illinois Vehicle Code or a similar provision of a local ordinance. Provides that the Secretary of State shall maintain orders of court supervision and convictions for DUI under the Illinois vehicle Code or a similar provision of a local ordinance on court purposes driving abstracts.

LRB101 18384 RLC 67831 b

1 AN ACT concerning State government.

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, sealing, and immediate 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 (G-5) "Minor Cannabis Offense" means a violation
9 of Section 4 or 5 of the Cannabis Control Act
10 concerning not more than 30 grams of any substance
11 containing cannabis, provided the violation did not
12 include a penalty enhancement under Section 7 of the
13 Cannabis Control Act and is not associated with an
14 arrest, conviction or other disposition for a violent
15 crime as defined in subsection (c) of Section 3 of the
16 Rights of Crime Victims and Witnesses Act.

17 (H) "Municipal ordinance violation" means an
18 offense defined by a municipal or local ordinance that
19 is criminal in nature and with which the petitioner was
20 charged or for which the petitioner was arrested and
21 released without charging.

22 (I) "Petitioner" means an adult or a minor
23 prosecuted as an adult who has applied for relief under
24 this Section.

25 (J) "Qualified probation" means an order of
26 probation under Section 10 of the Cannabis Control Act,

1 Section 410 of the Illinois Controlled Substances Act,
2 Section 70 of the Methamphetamine Control and
3 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
4 of the Unified Code of Corrections, Section
5 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as
6 those provisions existed before their deletion by
7 Public Act 89-313), Section 10-102 of the Illinois
8 Alcoholism and Other Drug Dependency Act, Section
9 40-10 of the Substance Use Disorder Act, or Section 10
10 of the Steroid Control Act. For the purpose of this
11 Section, "successful completion" of an order of
12 qualified probation under Section 10-102 of the
13 Illinois Alcoholism and Other Drug Dependency Act and
14 Section 40-10 of the Substance Use Disorder Act means
15 that the probation was terminated satisfactorily and
16 the judgment of conviction was vacated.

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

1 (L) "Sexual offense committed against a minor"
2 includes, but is not limited to, the offenses of
3 indecent solicitation of a child or criminal sexual
4 abuse when the victim of such offense is under 18 years
5 of age.

6 (M) "Terminate" as it relates to a sentence or
7 order of supervision or qualified probation includes
8 either satisfactory or unsatisfactory termination of
9 the sentence, unless otherwise specified in this
10 Section. A sentence is terminated notwithstanding any
11 outstanding financial legal obligation.

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

16 (2.5) Commencing 180 days after July 29, 2016 (the
17 effective date of Public Act 99-697), the law enforcement
18 agency issuing the citation shall automatically expunge,
19 on or before January 1 and July 1 of each year, the law
20 enforcement records of a person found to have committed a
21 civil law violation of subsection (a) of Section 4 of the
22 Cannabis Control Act or subsection (c) of Section 3.5 of
23 the Drug Paraphernalia Control Act in the law enforcement
24 agency's possession or control and which contains the final
25 satisfactory disposition which pertain to the person
26 issued a citation for that offense. The law enforcement

1 agency shall provide by rule the process for access,
2 review, and to confirm the automatic expungement by the law
3 enforcement agency issuing the citation. Commencing 180
4 days after July 29, 2016 (the effective date of Public Act
5 99-697), the clerk of the circuit court shall expunge, upon
6 order of the court, or in the absence of a court order on
7 or before January 1 and July 1 of each year, the court
8 records of a person found in the circuit court to have
9 committed a civil law violation of subsection (a) of
10 Section 4 of the Cannabis Control Act or subsection (c) of
11 Section 3.5 of the Drug Paraphernalia Control Act in the
12 clerk's possession or control and which contains the final
13 satisfactory disposition which pertain to the person
14 issued a citation for any of those offenses.

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

18 (A) the sealing or expungement of the records of
19 arrests or charges not initiated by arrest that result
20 in an order of supervision for or conviction of: (i)
21 any sexual offense committed against a minor; (ii)
22 ~~(blank) Section 11-501 of the Illinois Vehicle Code or~~
23 ~~a similar provision of a local ordinance;~~ or (iii)
24 Section 11-503 of the Illinois Vehicle Code or a
25 similar provision of a local ordinance, unless the
26 arrest or charge is for a misdemeanor violation of

1 subsection (a) of Section 11-503 or a similar provision
2 of a local ordinance, that occurred prior to the
3 offender reaching the age of 25 years and the offender
4 has no other conviction for violating Section ~~11-501 or~~
5 11-503 of the Illinois Vehicle Code or a similar
6 provision of a local ordinance.

7 (B) the sealing or expungement of records of minor
8 traffic offenses (as defined in subsection (a)(1)(G)),
9 unless the petitioner was arrested and released
10 without charging.

11 (C) the sealing of the records of arrests or
12 charges not initiated by arrest which result in an
13 order of supervision or a conviction for the following
14 offenses:

15 (i) offenses included in Article 11 of the
16 Criminal Code of 1961 or the Criminal Code of 2012
17 or a similar provision of a local ordinance, except
18 Section 11-14 and a misdemeanor violation of
19 Section 11-30 of the Criminal Code of 1961 or the
20 Criminal Code of 2012, or a similar provision of a
21 local ordinance;

22 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
23 26-5, or 48-1 of the Criminal Code of 1961 or the
24 Criminal Code of 2012, or a similar provision of a
25 local ordinance;

26 (iii) Sections 12-3.1 or 12-3.2 of the

1 Criminal Code of 1961 or the Criminal Code of 2012,
2 or Section 125 of the Stalking No Contact Order
3 Act, or Section 219 of the Civil No Contact Order
4 Act, or a similar provision of a local ordinance;

5 (iv) Class A misdemeanors or felony offenses
6 under the Humane Care for Animals Act; or

7 (v) any offense or attempted offense that
8 would subject a person to registration under the
9 Sex Offender Registration Act.

10 (D) (blank).

11 (E) the sealing or expungement of records of
12 arrests or charges not initiated by arrest that result
13 in an order of supervision for or conviction of Section
14 11-501 of the Illinois Vehicle Code or a similar
15 provision of a local ordinance; except that the court
16 may order the sealing of one misdemeanor record of
17 arrest or charge not initiated by arrest that results
18 in an order of supervision for or conviction of Section
19 11-501 of the Illinois Vehicle Code or a similar
20 provision of a local ordinance per petitioner if each
21 of the following conditions have been met: (i) the
22 petitioner has not previously been convicted of or
23 placed on supervision for a violation of Section 11-501
24 of the Illinois Vehicle Code or a similar provision of
25 a local ordinance; (ii) 10 or more years have passed
26 since the termination of the petitioner's sentence;

1 (iii) during the commission of the violation, the
2 petitioner did not proximately cause death or personal
3 injury to any other person or damage the property of
4 any other person; (iv) the petitioner has no other
5 misdemeanor or felony driving charge on his or her
6 driving abstract; and (v) the judge examined the
7 driving abstract of the petitioner petitioning to have
8 his or her record sealed under this subparagraph (E)
9 and made a finding entered on the record that the
10 petitioner did not enter into a plea agreement on a
11 lesser charge other than a violation of Section 11-501
12 of the Illinois Vehicle Code or a similar provision of
13 a local ordinance, and the facts did not support that
14 the petitioner had previously committed a violation of
15 Section 11-501 of the Illinois Vehicle Code or a
16 similar provision of a local ordinance. A felony
17 conviction of Section 11-501 of the Illinois Vehicle
18 Code or a similar provision of a local ordinance may
19 not be sealed or expunged under this subparagraph (E).
20 Notwithstanding any provision of this Act to the
21 contrary, the Secretary of State shall maintain orders
22 of court supervision and convictions of Section 11-501
23 of the Illinois Vehicle Code or a similar provision of
24 a local ordinance on court purposes driving abstracts.

25 (b) Expungement.

26 (1) A petitioner may petition the circuit court to

1 expunge the records of his or her arrests and charges not
2 initiated by arrest when each arrest or charge not
3 initiated by arrest sought to be expunged resulted in: (i)
4 acquittal, dismissal, or the petitioner's release without
5 charging, unless excluded by subsection (a)(3)(B); (ii) a
6 conviction which was vacated or reversed, unless excluded
7 by subsection (a)(3)(B); (iii) an order of supervision and
8 such supervision was successfully completed by the
9 petitioner, unless excluded by subsection (a)(3)(A) or
10 (a)(3)(B); or (iv) an order of qualified probation (as
11 defined in subsection (a)(1)(J)) and such probation was
12 successfully completed by the petitioner.

13 (1.5) When a petitioner seeks to have a record of
14 arrest expunged under this Section, and the offender has
15 been convicted of a criminal offense, the State's Attorney
16 may object to the expungement on the grounds that the
17 records contain specific relevant information aside from
18 the mere fact of the arrest.

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

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

26 (B) When the arrest or charge not initiated by

1 arrest sought to be expunged resulted in an order of
2 supervision, successfully completed by the petitioner,
3 the following time frames will apply:

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

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

25 (ii) Those arrests or charges that resulted in
26 orders of supervision for any other offenses shall

1 not be eligible for expungement until 2 years have
2 passed following the satisfactory termination of
3 the supervision.

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

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

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

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

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

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

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

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

1 Steroid Control Act.

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

9 (c) Sealing.

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

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 unless otherwise
16 excluded by subsection (a) paragraph (3) of this
17 Section.

18 (3) When Records Are Eligible to Be Sealed. Records
19 identified as eligible under subsection (c) (2) may be
20 sealed as follows:

21 (A) Records identified as eligible under
22 subsection (c) (2) (A) and (c) (2) (B) may be sealed at any
23 time.

24 (B) Except as otherwise provided in subparagraph
25 (E) of this paragraph (3), records identified as
26 eligible under subsection (c) (2) (C) may be sealed 2

1 years after the termination of petitioner's last
2 sentence (as defined in subsection (a) (1) (F)).

3 (C) Except as otherwise provided in subparagraph
4 (E) of this paragraph (3), records identified as
5 eligible under subsections (c) (2) (D), (c) (2) (E), and
6 (c) (2) (F) may be sealed 3 years after the termination
7 of the petitioner's last sentence (as defined in
8 subsection (a) (1) (F)). Convictions requiring public
9 registration under the Arsonist Registration Act, the
10 Sex Offender Registration Act, or the Murderer and
11 Violent Offender Against Youth Registration Act may
12 not be sealed until the petitioner is no longer
13 required to register under that relevant Act.

14 (D) Records identified in subsection
15 (a) (3) (A) (iii) may be sealed after the petitioner has
16 reached the age of 25 years.

17 (E) Records identified as eligible under
18 subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or
19 (c) (2) (F) may be sealed upon termination of the
20 petitioner's last sentence if the petitioner earned a
21 high school diploma, associate's degree, career
22 certificate, vocational technical certification, or
23 bachelor's degree, or passed the high school level Test
24 of General Educational Development, during the period
25 of his or her sentence or mandatory supervised release.
26 This subparagraph shall apply only to a petitioner who

1 has not completed the same educational goal prior to
2 the period of his or her sentence or mandatory
3 supervised release. If a petition for sealing eligible
4 records filed under this subparagraph is denied by the
5 court, the time periods under subparagraph (B) or (C)
6 shall apply to any subsequent petition for sealing
7 filed by the petitioner.

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

16 (5) Notice of eligibility for sealing. Upon entry of a
17 disposition for an eligible record under this subsection
18 (c), the petitioner shall be informed by the court of the
19 right to have the records sealed and the procedures for the
20 sealing of the records.

21 (d) Procedure. The following procedures apply to
22 expungement under subsections (b), (e), and (e-6) and sealing
23 under subsections (c) and (e-5):

24 (1) Filing the petition. Upon becoming eligible to
25 petition for the expungement or sealing of records under
26 this Section, the petitioner shall file a petition

1 requesting the expungement or sealing of records with the
2 clerk of the court where the arrests occurred or the
3 charges were brought, or both. If arrests occurred or
4 charges were brought in multiple jurisdictions, a petition
5 must be filed in each such jurisdiction. The petitioner
6 shall pay the applicable fee, except no fee shall be
7 required if the petitioner has obtained a court order
8 waiving fees under Supreme Court Rule 298 or it is
9 otherwise waived.

10 (1.5) County fee waiver pilot program. From August 9,
11 2019 (the effective date of Public Act 101-306) through
12 December 31, 2020, in a county of 3,000,000 or more
13 inhabitants, no fee shall be required to be paid by a
14 petitioner if the records sought to be expunged or sealed
15 were arrests resulting in release without charging or
16 arrests or charges not initiated by arrest resulting in
17 acquittal, dismissal, or conviction when the conviction
18 was reversed or vacated, unless excluded by subsection
19 (a)(3)(B). The provisions of this paragraph (1.5), other
20 than this sentence, are inoperative on and after January 1,
21 2021.

22 (2) Contents of petition. The petition shall be
23 verified and shall contain the petitioner's name, date of
24 birth, current address and, for each arrest or charge not
25 initiated by arrest sought to be sealed or expunged, the
26 case number, the date of arrest (if any), the identity of

1 the arresting authority, and such other information as the
2 court may require. During the pendency of the proceeding,
3 the petitioner shall promptly notify the circuit court
4 clerk of any change of his or her address. If the
5 petitioner has received a certificate of eligibility for
6 sealing from the Prisoner Review Board under paragraph (10)
7 of subsection (a) of Section 3-3-2 of the Unified Code of
8 Corrections, the certificate shall be attached to the
9 petition.

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

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

19 (B) seal felony records for a violation of the
20 Illinois Controlled Substances Act, the
21 Methamphetamine Control and Community Protection Act,
22 or the Cannabis Control Act under clause (c) (2) (F);

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

24 (D) expunge felony records of a qualified
25 probation under clause (b) (1) (iv).

26 (4) Service of petition. The circuit court clerk shall

1 promptly serve a copy of the petition and documentation to
2 support the petition under subsection (e-5) or (e-6) on the
3 State's Attorney or prosecutor charged with the duty of
4 prosecuting the offense, the Department of State Police,
5 the arresting agency and the chief legal officer of the
6 unit of local government effecting the arrest.

7 (5) Objections.

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

16 (B) Objections to a petition to expunge or seal
17 must be filed within 60 days of the date of service of
18 the petition.

19 (6) Entry of order.

20 (A) The Chief Judge of the circuit wherein the
21 charge was brought, any judge of that circuit
22 designated by the Chief Judge, or in counties of less
23 than 3,000,000 inhabitants, the presiding trial judge
24 at the petitioner's trial, if any, shall rule on the
25 petition to expunge or seal as set forth in this
26 subsection (d) (6).

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

7 (C) Notwithstanding any other provision of law,
8 the court shall not deny a petition for sealing under
9 this Section because the petitioner has not satisfied
10 an outstanding legal financial obligation established,
11 imposed, or originated by a court, law enforcement
12 agency, or a municipal, State, county, or other unit of
13 local government, including, but not limited to, any
14 cost, assessment, fine, or fee. An outstanding legal
15 financial obligation does not include any court
16 ordered restitution to a victim under Section 5-5-6 of
17 the Unified Code of Corrections, unless the
18 restitution has been converted to a civil judgment.
19 Nothing in this subparagraph (C) waives, rescinds, or
20 abrogates a legal financial obligation or otherwise
21 eliminates or affects the right of the holder of any
22 financial obligation to pursue collection under
23 applicable federal, State, or local law.

24 (7) Hearings. If an objection is filed, the court shall
25 set a date for a hearing and notify the petitioner and all
26 parties entitled to notice of the petition of the hearing

1 date at least 30 days prior to the hearing. Prior to the
2 hearing, the State's Attorney shall consult with the
3 Department as to the appropriateness of the relief sought
4 in the petition to expunge or seal. At the hearing, the
5 court shall hear evidence on whether the petition should or
6 should not be granted, and shall grant or deny the petition
7 to expunge or seal the records based on the evidence
8 presented at the hearing. The court may consider the
9 following:

10 (A) the strength of the evidence supporting the
11 defendant's conviction;

12 (B) the reasons for retention of the conviction
13 records by the State;

14 (C) the petitioner's age, criminal record history,
15 and employment history;

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

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

21 (8) Service of order. After entering an order to
22 expunge or seal records, the court must provide copies of
23 the order to the Department, in a form and manner
24 prescribed by the Department, to the petitioner, to the
25 State's Attorney or prosecutor charged with the duty of
26 prosecuting the offense, to the arresting agency, to the

1 chief legal officer of the unit of local government
2 effecting the arrest, and to such other criminal justice
3 agencies as may be ordered by the court.

4 (9) Implementation of order.

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

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

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

23 (iii) in response to an inquiry for expunged
24 records, the court, the Department, or the agency
25 receiving such inquiry, shall reply as it does in
26 response to inquiries when no records ever

1 existed.

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

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

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

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

25 (iv) records impounded by the Department may
26 be disseminated by the Department only as required

1 by law or to the arresting authority, the State's
2 Attorney, and the court upon a later arrest for the
3 same or a similar offense or for the purpose of
4 sentencing for any subsequent felony, and to the
5 Department of Corrections upon conviction for any
6 offense; and

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

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

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

22 (ii) the records of the circuit court clerk
23 shall be impounded until further order of the court
24 upon good cause shown and the name of the
25 petitioner obliterated on the official index
26 required to be kept by the circuit court clerk

1 under Section 16 of the Clerks of Courts Act, but
2 the order shall not affect any index issued by the
3 circuit court clerk before the entry of the order;

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

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

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

24 (C) Upon entry of an order to seal records under
25 subsection (c), the arresting agency, any other agency
26 as ordered by the court, the Department, and the court

1 shall seal the records (as defined in subsection
2 (a) (1) (K)). In response to an inquiry for such records,
3 from anyone not authorized by law to access such
4 records, the court, the Department, or the agency
5 receiving such inquiry shall reply as it does in
6 response to inquiries when no records ever existed.

7 (D) The Department shall send written notice to the
8 petitioner of its compliance with each order to expunge
9 or seal records within 60 days of the date of service
10 of that order or, if a motion to vacate, modify, or
11 reconsider is filed, within 60 days of service of the
12 order resolving the motion, if that order requires the
13 Department to expunge or seal records. In the event of
14 an appeal from the circuit court order, the Department
15 shall send written notice to the petitioner of its
16 compliance with an Appellate Court or Supreme Court
17 judgment to expunge or seal records within 60 days of
18 the issuance of the court's mandate. The notice is not
19 required while any motion to vacate, modify, or
20 reconsider, or any appeal or petition for
21 discretionary appellate review, is pending.

22 (E) Upon motion, the court may order that a sealed
23 judgment or other court record necessary to
24 demonstrate the amount of any legal financial
25 obligation due and owing be made available for the
26 limited purpose of collecting any legal financial

1 obligations owed by the petitioner that were
2 established, imposed, or originated in the criminal
3 proceeding for which those records have been sealed.
4 The records made available under this subparagraph (E)
5 shall not be entered into the official index required
6 to be kept by the circuit court clerk under Section 16
7 of the Clerks of Courts Act and shall be immediately
8 re-impounded upon the collection of the outstanding
9 financial obligations.

10 (F) Notwithstanding any other provision of this
11 Section, a circuit court clerk may access a sealed
12 record for the limited purpose of collecting payment
13 for any legal financial obligations that were
14 established, imposed, or originated in the criminal
15 proceedings for which those records have been sealed.

16 (10) Fees. The Department may charge the petitioner a
17 fee equivalent to the cost of processing any order to
18 expunge or seal records. Notwithstanding any provision of
19 the Clerks of Courts Act to the contrary, the circuit court
20 clerk may charge a fee equivalent to the cost associated
21 with the sealing or expungement of records by the circuit
22 court clerk. From the total filing fee collected for the
23 petition to seal or expunge, the circuit court clerk shall
24 deposit \$10 into the Circuit Court Clerk Operation and
25 Administrative Fund, to be used to offset the costs
26 incurred by the circuit court clerk in performing the

1 additional duties required to serve the petition to seal or
2 expunge on all parties. The circuit court clerk shall
3 collect and forward the Department of State Police portion
4 of the fee to the Department and it shall be deposited in
5 the State Police Services Fund. If the record brought under
6 an expungement petition was previously sealed under this
7 Section, the fee for the expungement petition for that same
8 record shall be waived.

9 (11) Final Order. No court order issued under the
10 expungement or sealing provisions of this Section shall
11 become final for purposes of appeal until 30 days after
12 service of the order on the petitioner and all parties
13 entitled to notice of the petition.

14 (12) Motion to Vacate, Modify, or Reconsider. Under
15 Section 2-1203 of the Code of Civil Procedure, the
16 petitioner or any party entitled to notice may file a
17 motion to vacate, modify, or reconsider the order granting
18 or denying the petition to expunge or seal within 60 days
19 of service of the order. If filed more than 60 days after
20 service of the order, a petition to vacate, modify, or
21 reconsider shall comply with subsection (c) of Section
22 2-1401 of the Code of Civil Procedure. Upon filing of a
23 motion to vacate, modify, or reconsider, notice of the
24 motion shall be served upon the petitioner and all parties
25 entitled to notice of the petition.

26 (13) Effect of Order. An order granting a petition

1 under the expungement or sealing provisions of this Section
2 shall not be considered void because it fails to comply
3 with the provisions of this Section or because of any error
4 asserted in a motion to vacate, modify, or reconsider. The
5 circuit court retains jurisdiction to determine whether
6 the order is voidable and to vacate, modify, or reconsider
7 its terms based on a motion filed under paragraph (12) of
8 this subsection (d).

9 (14) Compliance with Order Granting Petition to Seal
10 Records. Unless a court has entered a stay of an order
11 granting a petition to seal, all parties entitled to notice
12 of the petition must fully comply with the terms of the
13 order within 60 days of service of the order even if a
14 party is seeking relief from the order through a motion
15 filed under paragraph (12) of this subsection (d) or is
16 appealing the order.

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

26 (16) The changes to this subsection (d) made by Public

1 Act 98-163 apply to all petitions pending on August 5, 2013
2 (the effective date of Public Act 98-163) and to all orders
3 ruling on a petition to expunge or seal on or after August
4 5, 2013 (the effective date of Public Act 98-163).

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

1 any subsequent offense, the Department of Corrections shall
2 have access to all sealed records of the Department pertaining
3 to that individual. Upon entry of the order of expungement, the
4 circuit court clerk shall promptly mail a copy of the order to
5 the person who was pardoned.

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

1 enforcement agency, the State's Attorney, and the court upon a
2 later arrest for the same or similar offense or for the purpose
3 of sentencing for any subsequent felony. Upon conviction for
4 any subsequent offense, the Department of Corrections shall
5 have access to all sealed records of the Department pertaining
6 to that individual. Upon entry of the order of sealing, the
7 circuit court clerk shall promptly mail a copy of the order to
8 the person who was granted the certificate of eligibility for
9 sealing.

10 (e-6) Whenever a person who has been convicted of an
11 offense is granted a certificate of eligibility for expungement
12 by the Prisoner Review Board which specifically authorizes
13 expungement, he or she may, upon verified petition to the Chief
14 Judge of the circuit where the person had been convicted, any
15 judge of the circuit designated by the Chief Judge, or in
16 counties of less than 3,000,000 inhabitants, the presiding
17 trial judge at the petitioner's trial, have a court order
18 entered expunging the record of arrest from the official
19 records of the arresting authority and order that the records
20 of the circuit court clerk and the Department be sealed until
21 further order of the court upon good cause shown or as
22 otherwise provided herein, and the name of the petitioner
23 obliterated from the official index requested to be kept by the
24 circuit court clerk under Section 16 of the Clerks of Courts
25 Act in connection with the arrest and conviction for the
26 offense for which he or she had been granted the certificate

1 but the order shall not affect any index issued by the circuit
2 court clerk before the entry of the order. All records sealed
3 by the Department may be disseminated by the Department only as
4 required by this Act or to the arresting authority, a law
5 enforcement agency, the State's Attorney, and the court upon a
6 later arrest for the same or similar offense or for the purpose
7 of sentencing for any subsequent felony. Upon conviction for
8 any subsequent offense, the Department of Corrections shall
9 have access to all expunged records of the Department
10 pertaining to that individual. Upon entry of the order of
11 expungement, the circuit court clerk shall promptly mail a copy
12 of the order to the person who was granted the certificate of
13 eligibility for expungement.

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

26 (g) Immediate Sealing.

1 (1) Applicability. Notwithstanding any other provision
2 of this Act to the contrary, and cumulative with any rights
3 to expungement or sealing of criminal records, this
4 subsection authorizes the immediate sealing of criminal
5 records of adults and of minors prosecuted as adults.

6 (2) Eligible Records. Arrests or charges not initiated
7 by arrest resulting in acquittal or dismissal with
8 prejudice, except as excluded by subsection (a)(3)(B),
9 that occur on or after January 1, 2018 (the effective date
10 of Public Act 100-282), may be sealed immediately if the
11 petition is filed with the circuit court clerk on the same
12 day and during the same hearing in which the case is
13 disposed.

14 (3) When Records are Eligible to be Immediately Sealed.
15 Eligible records under paragraph (2) of this subsection (g)
16 may be sealed immediately after entry of the final
17 disposition of a case, notwithstanding the disposition of
18 other charges in the same case.

19 (4) Notice of Eligibility for Immediate Sealing. Upon
20 entry of a disposition for an eligible record under this
21 subsection (g), the defendant shall be informed by the
22 court of his or her right to have eligible records
23 immediately sealed and the procedure for the immediate
24 sealing of these records.

25 (5) Procedure. The following procedures apply to
26 immediate sealing under this subsection (g).

1 (A) Filing the Petition. Upon entry of the final
2 disposition of the case, the defendant's attorney may
3 immediately petition the court, on behalf of the
4 defendant, for immediate sealing of eligible records
5 under paragraph (2) of this subsection (g) that are
6 entered on or after January 1, 2018 (the effective date
7 of Public Act 100-282). The immediate sealing petition
8 may be filed with the circuit court clerk during the
9 hearing in which the final disposition of the case is
10 entered. If the defendant's attorney does not file the
11 petition for immediate sealing during the hearing, the
12 defendant may file a petition for sealing at any time
13 as authorized under subsection (c) (3) (A).

14 (B) Contents of Petition. The immediate sealing
15 petition shall be verified and shall contain the
16 petitioner's name, date of birth, current address, and
17 for each eligible record, the case number, the date of
18 arrest if applicable, the identity of the arresting
19 authority if applicable, and other information as the
20 court may require.

21 (C) Drug Test. The petitioner shall not be required
22 to attach proof that he or she has passed a drug test.

23 (D) Service of Petition. A copy of the petition
24 shall be served on the State's Attorney in open court.
25 The petitioner shall not be required to serve a copy of
26 the petition on any other agency.

1 (E) Entry of Order. The presiding trial judge shall
2 enter an order granting or denying the petition for
3 immediate sealing during the hearing in which it is
4 filed. Petitions for immediate sealing shall be ruled
5 on in the same hearing in which the final disposition
6 of the case is entered.

7 (F) Hearings. The court shall hear the petition for
8 immediate sealing on the same day and during the same
9 hearing in which the disposition is rendered.

10 (G) Service of Order. An order to immediately seal
11 eligible records shall be served in conformance with
12 subsection (d) (8).

13 (H) Implementation of Order. An order to
14 immediately seal records shall be implemented in
15 conformance with subsections (d) (9) (C) and (d) (9) (D).

16 (I) Fees. The fee imposed by the circuit court
17 clerk and the Department of State Police shall comply
18 with paragraph (1) of subsection (d) of this Section.

19 (J) Final Order. No court order issued under this
20 subsection (g) shall become final for purposes of
21 appeal until 30 days after service of the order on the
22 petitioner and all parties entitled to service of the
23 order in conformance with subsection (d) (8).

24 (K) Motion to Vacate, Modify, or Reconsider. Under
25 Section 2-1203 of the Code of Civil Procedure, the
26 petitioner, State's Attorney, or the Department of

1 State Police may file a motion to vacate, modify, or
2 reconsider the order denying the petition to
3 immediately seal within 60 days of service of the
4 order. If filed more than 60 days after service of the
5 order, a petition to vacate, modify, or reconsider
6 shall comply with subsection (c) of Section 2-1401 of
7 the Code of Civil Procedure.

8 (L) Effect of Order. An order granting an immediate
9 sealing petition shall not be considered void because
10 it fails to comply with the provisions of this Section
11 or because of an error asserted in a motion to vacate,
12 modify, or reconsider. The circuit court retains
13 jurisdiction to determine whether the order is
14 voidable, and to vacate, modify, or reconsider its
15 terms based on a motion filed under subparagraph (L) of
16 this subsection (g).

17 (M) Compliance with Order Granting Petition to
18 Seal Records. Unless a court has entered a stay of an
19 order granting a petition to immediately seal, all
20 parties entitled to service of the order must fully
21 comply with the terms of the order within 60 days of
22 service of the order.

23 (h) Sealing; trafficking victims.

24 (1) A trafficking victim as defined by paragraph (10)
25 of subsection (a) of Section 10-9 of the Criminal Code of
26 2012 shall be eligible to petition for immediate sealing of

1 his or her criminal record upon the completion of his or
2 her last sentence if his or her participation in the
3 underlying offense was a direct result of human trafficking
4 under Section 10-9 of the Criminal Code of 2012 or a severe
5 form of trafficking under the federal Trafficking Victims
6 Protection Act.

7 (2) A petitioner under this subsection (h), in addition
8 to the requirements provided under paragraph (4) of
9 subsection (d) of this Section, shall include in his or her
10 petition a clear and concise statement that: (A) he or she
11 was a victim of human trafficking at the time of the
12 offense; and (B) that his or her participation in the
13 offense was a direct result of human trafficking under
14 Section 10-9 of the Criminal Code of 2012 or a severe form
15 of trafficking under the federal Trafficking Victims
16 Protection Act.

17 (3) If an objection is filed alleging that the
18 petitioner is not entitled to immediate sealing under this
19 subsection (h), the court shall conduct a hearing under
20 paragraph (7) of subsection (d) of this Section and the
21 court shall determine whether the petitioner is entitled to
22 immediate sealing under this subsection (h). A petitioner
23 is eligible for immediate relief under this subsection (h)
24 if he or she shows, by a preponderance of the evidence,
25 that: (A) he or she was a victim of human trafficking at
26 the time of the offense; and (B) that his or her

1 participation in the offense was a direct result of human
2 trafficking under Section 10-9 of the Criminal Code of 2012
3 or a severe form of trafficking under the federal
4 Trafficking Victims Protection Act.

5 (i) Minor Cannabis Offenses under the Cannabis Control Act.

6 (1) Expungement of Arrest Records of Minor Cannabis
7 Offenses.

8 (A) The Department of State Police and all law
9 enforcement agencies within the State shall
10 automatically expunge all criminal history records of
11 an arrest, charge not initiated by arrest, order of
12 supervision, or order of qualified probation for a
13 Minor Cannabis Offense committed prior to June 25, 2019
14 (the effective date of Public Act 101-27) if:

15 (i) One year or more has elapsed since the date
16 of the arrest or law enforcement interaction
17 documented in the records; and

18 (ii) No criminal charges were filed relating
19 to the arrest or law enforcement interaction or
20 criminal charges were filed and subsequently
21 dismissed or vacated or the arrestee was
22 acquitted.

23 (B) If the law enforcement agency is unable to
24 verify satisfaction of condition (ii) in paragraph
25 (A), records that satisfy condition (i) in paragraph
26 (A) shall be automatically expunged.

1 (C) Records shall be expunged by the law
2 enforcement agency under the following timelines:

3 (i) Records created prior to June 25, 2019 (the
4 effective date of Public Act 101-27), but on or
5 after January 1, 2013, shall be automatically
6 expunged prior to January 1, 2021;

7 (ii) Records created prior to January 1, 2013,
8 but on or after January 1, 2000, shall be
9 automatically expunged prior to January 1, 2023;

10 (iii) Records created prior to January 1, 2000
11 shall be automatically expunged prior to January
12 1, 2025.

13 In response to an inquiry for expunged records, the
14 law enforcement agency receiving such inquiry shall
15 reply as it does in response to inquiries when no
16 records ever existed; however, it shall provide a
17 certificate of disposition or confirmation that the
18 record was expunged to the individual whose record was
19 expunged if such a record exists.

20 (D) Nothing in this Section shall be construed to
21 restrict or modify an individual's right to have that
22 individual's records expunged except as otherwise may
23 be provided in this Act, or diminish or abrogate any
24 rights or remedies otherwise available to the
25 individual.

26 (2) Pardons Authorizing Expungement of Minor Cannabis

1 Offenses.

2 (A) Upon June 25, 2019 (the effective date of
3 Public Act 101-27), the Department of State Police
4 shall review all criminal history record information
5 and identify all records that meet all of the following
6 criteria:

7 (i) one or more convictions for a Minor
8 Cannabis Offense;

9 (ii) the conviction identified in paragraph
10 (2) (A) (i) did not include a penalty enhancement
11 under Section 7 of the Cannabis Control Act; and

12 (iii) the conviction identified in paragraph
13 (2) (A) (i) is not associated with a conviction for a
14 violent crime as defined in subsection (c) of
15 Section 3 of the Rights of Crime Victims and
16 Witnesses Act.

17 (B) Within 180 days after June 25, 2019 (the
18 effective date of Public Act 101-27), the Department of
19 State Police shall notify the Prisoner Review Board of
20 all such records that meet the criteria established in
21 paragraph (2) (A).

22 (i) The Prisoner Review Board shall notify the
23 State's Attorney of the county of conviction of
24 each record identified by State Police in
25 paragraph (2) (A) that is classified as a Class 4
26 felony. The State's Attorney may provide a written

1 objection to the Prisoner Review Board on the sole
2 basis that the record identified does not meet the
3 criteria established in paragraph (2) (A). Such an
4 objection must be filed within 60 days or by such
5 later date set by Prisoner Review Board in the
6 notice after the State's Attorney received notice
7 from the Prisoner Review Board.

8 (ii) In response to a written objection from a
9 State's Attorney, the Prisoner Review Board is
10 authorized to conduct a non-public hearing to
11 evaluate the information provided in the
12 objection.

13 (iii) The Prisoner Review Board shall make a
14 confidential and privileged recommendation to the
15 Governor as to whether to grant a pardon
16 authorizing expungement for each of the records
17 identified by the Department of State Police as
18 described in paragraph (2) (A).

19 (C) If an individual has been granted a pardon
20 authorizing expungement as described in this Section,
21 the Prisoner Review Board, through the Attorney
22 General, shall file a petition for expungement with the
23 Chief Judge of the circuit or any judge of the circuit
24 designated by the Chief Judge where the individual had
25 been convicted. Such petition may include more than one
26 individual. Whenever an individual who has been

1 convicted of an offense is granted a pardon by the
2 Governor that specifically authorizes expungement, an
3 objection to the petition may not be filed. Petitions
4 to expunge under this subsection (i) may include more
5 than one individual. Within 90 days of the filing of
6 such a petition, the court shall enter an order
7 expunging the records of arrest from the official
8 records of the arresting authority and order that the
9 records of the circuit court clerk and the Department
10 of State Police be expunged and the name of the
11 defendant obliterated from the official index
12 requested to be kept by the circuit court clerk under
13 Section 16 of the Clerks of Courts Act in connection
14 with the arrest and conviction for the offense for
15 which the individual had received a pardon but the
16 order shall not affect any index issued by the circuit
17 court clerk before the entry of the order. Upon entry
18 of the order of expungement, the circuit court clerk
19 shall promptly provide a copy of the order and a
20 certificate of disposition to the individual who was
21 pardoned to the individual's last known address or by
22 electronic means (if available) or otherwise make it
23 available to the individual upon request.

24 (D) Nothing in this Section is intended to diminish
25 or abrogate any rights or remedies otherwise available
26 to the individual.

1 (3) Any individual may file a motion to vacate and
2 expunge a conviction for a misdemeanor or Class 4 felony
3 violation of Section 4 or Section 5 of the Cannabis Control
4 Act. Motions to vacate and expunge under this subsection
5 (i) may be filed with the circuit court, Chief Judge of a
6 judicial circuit or any judge of the circuit designated by
7 the Chief Judge. The circuit court clerk shall promptly
8 serve a copy of the motion to vacate and expunge, and any
9 supporting documentation, on the State's Attorney or
10 prosecutor charged with the duty of prosecuting the
11 offense. When considering such a motion to vacate and
12 expunge, a court shall consider the following: the reasons
13 to retain the records provided by law enforcement, the
14 petitioner's age, the petitioner's age at the time of
15 offense, the time since the conviction, and the specific
16 adverse consequences if denied. An individual may file such
17 a petition after the completion of any non-financial
18 sentence or non-financial condition imposed by the
19 conviction. Within 60 days of the filing of such motion, a
20 State's Attorney may file an objection to such a petition
21 along with supporting evidence. If a motion to vacate and
22 expunge is granted, the records shall be expunged in
23 accordance with subparagraphs (d)(8) and (d)(9)(A) of this
24 Section. An agency providing civil legal aid, as defined by
25 Section 15 of the Public Interest Attorney Assistance Act,
26 assisting individuals seeking to file a motion to vacate

1 and expunge under this subsection may file motions to
2 vacate and expunge with the Chief Judge of a judicial
3 circuit or any judge of the circuit designated by the Chief
4 Judge, and the motion may include more than one individual.
5 Motions filed by an agency providing civil legal aid
6 concerning more than one individual may be prepared,
7 presented, and signed electronically.

8 (4) Any State's Attorney may file a motion to vacate
9 and expunge a conviction for a misdemeanor or Class 4
10 felony violation of Section 4 or Section 5 of the Cannabis
11 Control Act. Motions to vacate and expunge under this
12 subsection (i) may be filed with the circuit court, Chief
13 Judge of a judicial circuit or any judge of the circuit
14 designated by the Chief Judge, and may include more than
15 one individual. Motions filed by a State's Attorney
16 concerning more than one individual may be prepared,
17 presented, and signed electronically. When considering
18 such a motion to vacate and expunge, a court shall consider
19 the following: the reasons to retain the records provided
20 by law enforcement, the individual's age, the individual's
21 age at the time of offense, the time since the conviction,
22 and the specific adverse consequences if denied. Upon entry
23 of an order granting a motion to vacate and expunge records
24 pursuant to this Section, the State's Attorney shall notify
25 the Prisoner Review Board within 30 days. Upon entry of the
26 order of expungement, the circuit court clerk shall

1 promptly provide a copy of the order and a certificate of
2 disposition to the individual whose records will be
3 expunged to the individual's last known address or by
4 electronic means (if available) or otherwise make
5 available to the individual upon request. If a motion to
6 vacate and expunge is granted, the records shall be
7 expunged in accordance with subparagraphs (d)(8) and
8 (d)(9)(A) of this Section.

9 (5) In the public interest, the State's Attorney of a
10 county has standing to file motions to vacate and expunge
11 pursuant to this Section in the circuit court with
12 jurisdiction over the underlying conviction.

13 (6) If a person is arrested for a Minor Cannabis
14 Offense as defined in this Section before June 25, 2019
15 (the effective date of Public Act 101-27) and the person's
16 case is still pending but a sentence has not been imposed,
17 the person may petition the court in which the charges are
18 pending for an order to summarily dismiss those charges
19 against him or her, and expunge all official records of his
20 or her arrest, plea, trial, conviction, incarceration,
21 supervision, or expungement. If the court determines, upon
22 review, that: (A) the person was arrested before June 25,
23 2019 (the effective date of Public Act 101-27) for an
24 offense that has been made eligible for expungement; (B)
25 the case is pending at the time; and (C) the person has not
26 been sentenced of the minor cannabis violation eligible for

1 expungement under this subsection, the court shall
2 consider the following: the reasons to retain the records
3 provided by law enforcement, the petitioner's age, the
4 petitioner's age at the time of offense, the time since the
5 conviction, and the specific adverse consequences if
6 denied. If a motion to dismiss and expunge is granted, the
7 records shall be expunged in accordance with subparagraph
8 (d) (9) (A) of this Section.

9 (7) A person imprisoned solely as a result of one or
10 more convictions for Minor Cannabis Offenses under this
11 subsection (i) shall be released from incarceration upon
12 the issuance of an order under this subsection.

13 (8) The Department of State Police shall allow a person
14 to use the access and review process, established in the
15 Department of State Police, for verifying that his or her
16 records relating to Minor Cannabis Offenses of the Cannabis
17 Control Act eligible under this Section have been expunged.

18 (9) No conviction vacated pursuant to this Section
19 shall serve as the basis for damages for time unjustly
20 served as provided in the Court of Claims Act.

21 (10) Effect of Expungement. A person's right to expunge
22 an expungeable offense shall not be limited under this
23 Section. The effect of an order of expungement shall be to
24 restore the person to the status he or she occupied before
25 the arrest, charge, or conviction.

26 (11) Information. The Department of State Police shall

1 post general information on its website about the
2 expungement process described in this subsection (i).

3 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;
4 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.
5 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,
6 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
7 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
8 12-4-19.)