



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0434

Introduced 2/8/2021, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that records of charges that result in an acquittal or dismissal with prejudice, except for minor traffic offenses, may be immediately expunged after the final disposition of the case. Provides that upon entry of judgment, the defendant shall be informed of this right and the proper procedures to follow to have records that are eligible be immediately expunged. Provides that the petition may be filed on behalf of the defendant by his or her attorney at the final disposition hearing, or by the defendant at any time. Provides that the State's Attorney may not object to an immediate expungement petition and the presiding trial judge shall enter an order granting or denying the petition during the hearing in which the petition is filed. Provides that no fees shall be charged by the circuit court clerk or the Department of State Police for processing petitions filed under this provision. Makes other changes.

LRB102 04268 RLC 14286 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 expungement
8 or sealing.

9 (a) General Provisions.

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

13 (A) The following terms shall have the meanings
14 ascribed to them in the Unified Code of Corrections,
15 730 ILCS 5/5-1-2 through 5/5-1-22:

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

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

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

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

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

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

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

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

1 (ix) Offense (730 ILCS 5/5-1-15),
2 (x) Parole (730 ILCS 5/5-1-16),
3 (xi) Petty Offense (730 ILCS 5/5-1-17),
4 (xii) Probation (730 ILCS 5/5-1-18),
5 (xiii) Sentence (730 ILCS 5/5-1-19),
6 (xiv) Supervision (730 ILCS 5/5-1-21), and
7 (xv) Victim (730 ILCS 5/5-1-22).

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

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

1 reversed or vacated.

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

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

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

1 of qualified probation terminate on the same day and
2 are last in time, they shall be collectively
3 considered the "last sentence" regardless of whether
4 they were ordered to run concurrently.

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

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

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

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

26 (J) "Qualified probation" means an order of

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

18 (K) "Seal" means to physically and electronically
19 maintain the records, unless the records would
20 otherwise be destroyed due to age, but to make the
21 records unavailable without a court order, subject to
22 the exceptions in Sections 12 and 13 of this Act. The
23 petitioner's name shall also be obliterated from the
24 official index required to be kept by the circuit
25 court clerk under Section 16 of the Clerks of Courts
26 Act, but any index issued by the circuit court clerk

1 before the entry of the order to seal shall not be
2 affected.

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

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

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

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

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

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

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

1 similar provision of a local ordinance, unless the
2 arrest or charge is for a misdemeanor violation of
3 subsection (a) of Section 11-503 or a similar
4 provision of a local ordinance, that occurred prior to
5 the offender reaching the age of 25 years and the
6 offender has no other conviction for violating Section
7 11-501 or 11-503 of the Illinois Vehicle Code or a
8 similar provision of a local ordinance.

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

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

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

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

1 local ordinance;

2 (iii) Sections 12-3.1 or 12-3.2 of the
3 Criminal Code of 1961 or the Criminal Code of
4 2012, or Section 125 of the Stalking No Contact
5 Order Act, or Section 219 of the Civil No Contact
6 Order Act, or a similar provision of a local
7 ordinance;

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

10 (v) any offense or attempted offense that
11 would subject a person to registration under the
12 Sex Offender Registration Act.

13 (D) (blank).

14 (b) Expungement.

15 (1) A petitioner may petition the circuit court to
16 expunge the records of his or her arrests and charges not
17 initiated by arrest when each arrest or charge not
18 initiated by arrest sought to be expunged resulted in: (i)
19 acquittal, dismissal, or the petitioner's release without
20 charging, unless excluded by subsection (a)(3)(B); (ii) a
21 conviction which was vacated or reversed, unless excluded
22 by subsection (a)(3)(B); (iii) an order of supervision and
23 such supervision was successfully completed by the
24 petitioner, unless excluded by subsection (a)(3)(A) or
25 (a)(3)(B); or (iv) an order of qualified probation (as
26 defined in subsection (a)(1)(J)) and such probation was

1 successfully completed by the petitioner.

2 (1.5) When a petitioner seeks to have a record of
3 arrest expunged under this Section, and the offender has
4 been convicted of a criminal offense, the State's Attorney
5 may object to the expungement on the grounds that the
6 records contain specific relevant information aside from
7 the mere fact of the arrest.

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

9 (A) When the arrest or charge not initiated by
10 arrest sought to be expunged resulted in an acquittal,
11 dismissal, the petitioner's release without charging,
12 or the reversal or vacation of a conviction, there is
13 no waiting period to petition for the expungement of
14 such records. Subsection (g) of this Section provides
15 for immediate expungement of certain records.

16 (B) When the arrest or charge not initiated by
17 arrest sought to be expunged resulted in an order of
18 supervision, successfully completed by the petitioner,
19 the following time frames will apply:

20 (i) Those arrests or charges that resulted in
21 orders of supervision under Section 3-707, 3-708,
22 3-710, or 5-401.3 of the Illinois Vehicle Code or
23 a similar provision of a local ordinance, or under
24 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
25 Code of 1961 or the Criminal Code of 2012, or a
26 similar provision of a local ordinance, shall not

1 be eligible for expungement until 5 years have
2 passed following the satisfactory termination of
3 the supervision.

4 (i-5) Those arrests or charges that resulted
5 in orders of supervision for a misdemeanor
6 violation of subsection (a) of Section 11-503 of
7 the Illinois Vehicle Code or a similar provision
8 of a local ordinance, that occurred prior to the
9 offender reaching the age of 25 years and the
10 offender has no other conviction for violating
11 Section 11-501 or 11-503 of the Illinois Vehicle
12 Code or a similar provision of a local ordinance
13 shall not be eligible for expungement until the
14 petitioner has reached the age of 25 years.

15 (ii) Those arrests or charges that resulted in
16 orders of supervision for any other offenses shall
17 not be eligible for expungement until 2 years have
18 passed following the satisfactory termination of
19 the supervision.

20 (C) When the arrest or charge not initiated by
21 arrest sought to be expunged resulted in an order of
22 qualified probation, successfully completed by the
23 petitioner, such records shall not be eligible for
24 expungement until 5 years have passed following the
25 satisfactory termination of the probation.

26 (3) Those records maintained by the Department for

1 persons arrested prior to their 17th birthday shall be
2 expunged as provided in Section 5-915 of the Juvenile
3 Court Act of 1987.

4 (4) Whenever a person has been arrested for or
5 convicted of any offense, in the name of a person whose
6 identity he or she has stolen or otherwise come into
7 possession of, the aggrieved person from whom the identity
8 was stolen or otherwise obtained without authorization,
9 upon learning of the person having been arrested using his
10 or her identity, may, upon verified petition to the chief
11 judge of the circuit wherein the arrest was made, have a
12 court order entered nunc pro tunc by the Chief Judge to
13 correct the arrest record, conviction record, if any, and
14 all official records of the arresting authority, the
15 Department, other criminal justice agencies, the
16 prosecutor, and the trial court concerning such arrest, if
17 any, by removing his or her name from all such records in
18 connection with the arrest and conviction, if any, and by
19 inserting in the records the name of the offender, if
20 known or ascertainable, in lieu of the aggrieved's name.
21 The records of the circuit court clerk shall be sealed
22 until further order of the court upon good cause shown and
23 the name of the aggrieved person obliterated on the
24 official index required to be kept by the circuit court
25 clerk under Section 16 of the Clerks of Courts Act, but the
26 order shall not affect any index issued by the circuit

1 court clerk before the entry of the order. Nothing in this
2 Section shall limit the Department of State Police or
3 other criminal justice agencies or prosecutors from
4 listing under an offender's name the false names he or she
5 has used.

6 (5) Whenever a person has been convicted of criminal
7 sexual assault, aggravated criminal sexual assault,
8 predatory criminal sexual assault of a child, criminal
9 sexual abuse, or aggravated criminal sexual abuse, the
10 victim of that offense may request that the State's
11 Attorney of the county in which the conviction occurred
12 file a verified petition with the presiding trial judge at
13 the petitioner's trial to have a court order entered to
14 seal the records of the circuit court clerk in connection
15 with the proceedings of the trial court concerning that
16 offense. However, the records of the arresting authority
17 and the Department of State Police concerning the offense
18 shall not be sealed. The court, upon good cause shown,
19 shall make the records of the circuit court clerk in
20 connection with the proceedings of the trial court
21 concerning the offense available for public inspection.

22 (6) If a conviction has been set aside on direct
23 review or on collateral attack and the court determines by
24 clear and convincing evidence that the petitioner was
25 factually innocent of the charge, the court that finds the
26 petitioner factually innocent of the charge shall enter an

1 expungement order for the conviction for which the
2 petitioner has been determined to be innocent as provided
3 in subsection (b) of Section 5-5-4 of the Unified Code of
4 Corrections.

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

19 (8) If the petitioner has been granted a certificate
20 of innocence under Section 2-702 of the Code of Civil
21 Procedure, the court that grants the certificate of
22 innocence shall also enter an order expunging the
23 conviction for which the petitioner has been determined to
24 be innocent as provided in subsection (h) of Section 2-702
25 of the Code of Civil Procedure.

26 (c) Sealing.

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

7 (2) Eligible Records. The following records may be
8 sealed:

9 (A) All arrests resulting in release without
10 charging;

11 (B) Arrests or charges not initiated by arrest
12 resulting in acquittal, dismissal, or conviction when
13 the conviction was reversed or vacated, except as
14 excluded by subsection (a) (3) (B);

15 (C) Arrests or charges not initiated by arrest
16 resulting in orders of supervision, including orders
17 of supervision for municipal ordinance violations,
18 successfully completed by the petitioner, unless
19 excluded by subsection (a) (3);

20 (D) Arrests or charges not initiated by arrest
21 resulting in convictions, including convictions on
22 municipal ordinance violations, unless excluded by
23 subsection (a) (3);

24 (E) Arrests or charges not initiated by arrest
25 resulting in orders of first offender probation under
26 Section 10 of the Cannabis Control Act, Section 410 of

1 the Illinois Controlled Substances Act, Section 70 of
2 the Methamphetamine Control and Community Protection
3 Act, or Section 5-6-3.3 of the Unified Code of
4 Corrections; and

5 (F) Arrests or charges not initiated by arrest
6 resulting in felony convictions unless otherwise
7 excluded by subsection (a) paragraph (3) of this
8 Section.

9 (3) When Records Are Eligible to Be Sealed. Records
10 identified as eligible under subsection (c)(2) may be
11 sealed as follows:

12 (A) Records identified as eligible under
13 subsection (c)(2)(A) and (c)(2)(B) may be sealed at
14 any time.

15 (B) Except as otherwise provided in subparagraph
16 (E) of this paragraph (3), records identified as
17 eligible under subsection (c)(2)(C) may be sealed 2
18 years after the termination of petitioner's last
19 sentence (as defined in subsection (a)(1)(F)).

20 (C) Except as otherwise provided in subparagraph
21 (E) of this paragraph (3), records identified as
22 eligible under subsections (c)(2)(D), (c)(2)(E), and
23 (c)(2)(F) may be sealed 3 years after the termination
24 of the petitioner's last sentence (as defined in
25 subsection (a)(1)(F)). Convictions requiring public
26 registration under the Arsonist Registration Act, the

1 Sex Offender Registration Act, or the Murderer and
2 Violent Offender Against Youth Registration Act may
3 not be sealed until the petitioner is no longer
4 required to register under that relevant Act.

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

8 (E) Records identified as eligible under
9 subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or
10 (c) (2) (F) may be sealed upon termination of the
11 petitioner's last sentence if the petitioner earned a
12 high school diploma, associate's degree, career
13 certificate, vocational technical certification, or
14 bachelor's degree, or passed the high school level
15 Test of General Educational Development, during the
16 period of his or her sentence or mandatory supervised
17 release. This subparagraph shall apply only to a
18 petitioner who has not completed the same educational
19 goal prior to the period of his or her sentence or
20 mandatory supervised release. If a petition for
21 sealing eligible records filed under this subparagraph
22 is denied by the court, the time periods under
23 subparagraph (B) or (C) shall apply to any subsequent
24 petition for sealing filed by the petitioner.

25 (4) Subsequent felony convictions. A person may not
26 have subsequent felony conviction records sealed as

1 provided in this subsection (c) if he or she is convicted
2 of any felony offense after the date of the sealing of
3 prior felony convictions as provided in this subsection
4 (c). The court may, upon conviction for a subsequent
5 felony offense, order the unsealing of prior felony
6 conviction records previously ordered sealed by the court.

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

12 (d) Procedure. The following procedures apply to
13 expungement under subsections (b), (e), and (e-6) and sealing
14 under subsections (c) and (e-5):

15 (1) Filing the petition. Upon becoming eligible to
16 petition for the expungement or sealing of records under
17 this Section, the petitioner shall file a petition
18 requesting the expungement or sealing of records with the
19 clerk of the court where the arrests occurred or the
20 charges were brought, or both. If arrests occurred or
21 charges were brought in multiple jurisdictions, a petition
22 must be filed in each such jurisdiction. The petitioner
23 shall pay the applicable fee, except no fee shall be
24 required if the petitioner has obtained a court order
25 waiving fees under Supreme Court Rule 298 or it is
26 otherwise waived.

1 (1.5) County fee waiver pilot program. From August 9,
2 2019 (the effective date of Public Act 101-306) through
3 December 31, 2020, in a county of 3,000,000 or more
4 inhabitants, no fee shall be required to be paid by a
5 petitioner if the records sought to be expunged or sealed
6 were arrests resulting in release without charging or
7 arrests or charges not initiated by arrest resulting in
8 acquittal, dismissal, or conviction when the conviction
9 was reversed or vacated, unless excluded by subsection
10 (a)(3)(B). The provisions of this paragraph (1.5), other
11 than this sentence, are inoperative on and after January
12 1, 2022.

13 (2) Contents of petition. The petition shall be
14 verified and shall contain the petitioner's name, date of
15 birth, current address and, for each arrest or charge not
16 initiated by arrest sought to be sealed or expunged, the
17 case number, the date of arrest (if any), the identity of
18 the arresting authority, and such other information as the
19 court may require. During the pendency of the proceeding,
20 the petitioner shall promptly notify the circuit court
21 clerk of any change of his or her address. If the
22 petitioner has received a certificate of eligibility for
23 sealing from the Prisoner Review Board under paragraph
24 (10) of subsection (a) of Section 3-3-2 of the Unified
25 Code of Corrections, the certificate shall be attached to
26 the petition.

1 (3) Drug test. The petitioner must attach to the
2 petition proof that the petitioner has passed a test taken
3 within 30 days before the filing of the petition showing
4 the absence within his or her body of all illegal
5 substances as defined by the Illinois Controlled
6 Substances Act, the Methamphetamine Control and Community
7 Protection Act, and the Cannabis Control Act if he or she
8 is petitioning to:

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

10 (B) seal felony records for a violation of the
11 Illinois Controlled Substances Act, the
12 Methamphetamine Control and Community Protection Act,
13 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

24 (5) Objections.

25 (A) Any party entitled to notice of the petition
26 may file an objection to the petition. All objections

1 shall be in writing, shall be filed with the circuit
2 court clerk, and shall state with specificity the
3 basis of the objection. Whenever a person who has been
4 convicted of an offense is granted a pardon by the
5 Governor which specifically authorizes expungement, an
6 objection to the petition may not be filed.

7 (B) Objections to a petition to expunge or seal
8 must be filed within 60 days of the date of service of
9 the petition.

10 (6) Entry of order.

11 (A) The Chief Judge of the circuit wherein the
12 charge was brought, any judge of that circuit
13 designated by the Chief Judge, or in counties of less
14 than 3,000,000 inhabitants, the presiding trial judge
15 at the petitioner's trial, if any, shall rule on the
16 petition to expunge or seal as set forth in this
17 subsection (d) (6).

18 (B) Unless the State's Attorney or prosecutor, the
19 Department of State Police, the arresting agency, or
20 the chief legal officer files an objection to the
21 petition to expunge or seal within 60 days from the
22 date of service of the petition, the court shall enter
23 an order granting or denying the petition.

24 (C) Notwithstanding any other provision of law,
25 the court shall not deny a petition for sealing under
26 this Section because the petitioner has not satisfied

1 an outstanding legal financial obligation established,
2 imposed, or originated by a court, law enforcement
3 agency, or a municipal, State, county, or other unit
4 of local government, including, but not limited to,
5 any cost, assessment, fine, or fee. An outstanding
6 legal financial obligation does not include any court
7 ordered restitution to a victim under Section 5-5-6 of
8 the Unified Code of Corrections, unless the
9 restitution has been converted to a civil judgment.
10 Nothing in this subparagraph (C) waives, rescinds, or
11 abrogates a legal financial obligation or otherwise
12 eliminates or affects the right of the holder of any
13 financial obligation to pursue collection under
14 applicable federal, State, or local law.

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

1 (A) the strength of the evidence supporting the
2 defendant's conviction;

3 (B) the reasons for retention of the conviction
4 records by the State;

5 (C) the petitioner's age, criminal record history,
6 and employment history;

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

10 (E) the specific adverse consequences the
11 petitioner may be subject to if the petition is
12 denied.

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

22 (9) Implementation of order.

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

25 (i) the records shall be expunged (as defined
26 in subsection (a) (1) (E)) by the arresting agency,

1 the Department, and any other agency as ordered by
2 the court, within 60 days of the date of service of
3 the order, unless a motion to vacate, modify, or
4 reconsider the order is filed pursuant to
5 paragraph (12) of subsection (d) of this Section;

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

15 (iii) in response to an inquiry for expunged
16 records, the court, the Department, or the agency
17 receiving such inquiry, shall reply as it does in
18 response to inquiries when no records ever
19 existed.

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

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

1 the order is filed pursuant to paragraph (12) of
2 subsection (d) of this Section;

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

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

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

25 (v) in response to an inquiry for such records
26 from anyone not authorized by law to access such

1 records, the court, the Department, or the agency
2 receiving such inquiry shall reply as it does in
3 response to inquiries when no records ever
4 existed.

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

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

14 (ii) the records of the circuit court clerk
15 shall be impounded until further order of the
16 court 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 (iii) the records shall be impounded by the
23 Department within 60 days of the date of service
24 of the order as ordered by the court, unless a
25 motion to vacate, modify, or reconsider the order
26 is filed under paragraph (12) of subsection (d) of

1 this Section;

2 (iv) records impounded by the Department may
3 be disseminated by the Department only as required
4 by law or to the arresting authority, the State's
5 Attorney, and the court upon a later arrest for
6 the same or a similar offense or for the purpose of
7 sentencing for any subsequent felony, and to the
8 Department of Corrections upon conviction for any
9 offense; and

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

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

25 (D) The Department shall send written notice to
26 the petitioner of its compliance with each order to

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

15 (E) Upon motion, the court may order that a sealed
16 judgment or other court record necessary to
17 demonstrate the amount of any legal financial
18 obligation due and owing be made available for the
19 limited purpose of collecting any legal financial
20 obligations owed by the petitioner that were
21 established, imposed, or originated in the criminal
22 proceeding for which those records have been sealed.
23 The records made available under this subparagraph (E)
24 shall not be entered into the official index required
25 to be kept by the circuit court clerk under Section 16
26 of the Clerks of Courts Act and shall be immediately

1 re-impounded upon the collection of the outstanding
2 financial obligations.

3 (F) Notwithstanding any other provision of this
4 Section, a circuit court clerk may access a sealed
5 record for the limited purpose of collecting payment
6 for any legal financial obligations that were
7 established, imposed, or originated in the criminal
8 proceedings for which those records have been sealed.

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

1 expungement petition for that same record shall be waived.

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

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

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

1 under paragraph (12) of this subsection (d).

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

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

20 (16) The changes to this subsection (d) made by Public
21 Act 98-163 apply to all petitions pending on August 5,
22 2013 (the effective date of Public Act 98-163) and to all
23 orders ruling on a petition to expunge or seal on or after
24 August 5, 2013 (the effective date of Public Act 98-163).

25 (e) Whenever a person who has been convicted of an offense
26 is granted a pardon by the Governor which specifically

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

26 (e-5) Whenever a person who has been convicted of an

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

1 circuit court clerk shall promptly mail a copy of the order to
2 the person who was granted the certificate of eligibility for
3 sealing.

4 (e-6) Whenever a person who has been convicted of an
5 offense is granted a certificate of eligibility for
6 expungement by the Prisoner Review Board 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 petitioner'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 petitioner
17 obliterated from the official index requested to be kept by
18 the circuit court clerk under Section 16 of the Clerks of
19 Courts Act in connection with the arrest and conviction for
20 the offense for which he or she had been granted the
21 certificate but the order shall not affect any index issued by
22 the circuit court clerk before the entry of the order. All
23 records sealed by the Department may be disseminated by the
24 Department only as required by this Act or to the arresting
25 authority, a law enforcement agency, the State's Attorney, and
26 the court upon a later arrest for the same or similar offense

1 or for the purpose of sentencing for any subsequent felony.
2 Upon conviction for any subsequent offense, the Department of
3 Corrections shall have access to all expunged records of the
4 Department pertaining to that individual. Upon entry of the
5 order of expungement, the circuit court clerk shall promptly
6 mail a copy of the order to the person who was granted the
7 certificate of eligibility for expungement.

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

20 (g) Immediate Expungement or Sealing.

21 (1) Applicability. Notwithstanding any other provision
22 of this Act to the contrary, and cumulative with any
23 rights to expungement or sealing of criminal records, this
24 subsection authorizes the immediate expunging or sealing
25 of criminal records of adults and of minors prosecuted as
26 adults.

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

9 (3) When Records are Eligible to be Immediately
10 Expunged or Sealed. Eligible records under paragraph (2)
11 of this subsection (g) may be expunged or sealed
12 immediately after entry of the final disposition of a
13 case, notwithstanding the disposition of other charges in
14 the same case.

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

21 (5) Procedure. The following procedures apply to
22 immediate expungement or sealing under this subsection
23 (g).

24 (A) Filing the Petition. Upon entry of the final
25 disposition of the case, the defendant's attorney may
26 immediately petition the court, on behalf of the

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

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

20 (C) Drug Test. The petitioner shall not be
21 required to attach proof that he or she has passed a
22 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
2 shall enter an order granting or denying the petition
3 for immediate expungement or sealing during the
4 hearing in which it is filed. Petitions for immediate
5 expungement or sealing shall be ruled on in the same
6 hearing in which the final disposition of the case is
7 entered.

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

12 (G) Service of Order. An order to immediately
13 expunge or seal eligible records shall be served in
14 conformance with paragraph (8) of subsection (d)
15 ~~subsection (d) (8)~~.

16 (H) Implementation of Order. An order to
17 immediately expungement or seal records shall be
18 implemented in conformance with subsections (d) (6) (B),
19 26 (d) (9) (A) (i), (d) (9) (A) (ii), (d) (9) (A) (iii),
20 (d) (9) (C), and (d) (9) (D).

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

24 (J) Final Order. No court order issued under this
25 subsection (g) shall become final for purposes of
26 appeal until 30 days after service of the order on the

1 petitioner and all parties entitled to service of the
2 order in conformance with subsection (d) (8).

3 (K) Motion to Vacate, Modify, or Reconsider. Under
4 Section 2-1203 of the Code of Civil Procedure, the
5 petitioner, State's Attorney, or the Department of
6 State Police may file a motion to vacate, modify, or
7 reconsider the order denying the petition to
8 immediately expunge or seal within 60 days of service
9 of the order. If filed more than 60 days after service
10 of the order, a petition to vacate, modify, or
11 reconsider shall comply with subsection (c) of Section
12 2-1401 of the Code of Civil Procedure.

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

22 (M) Compliance with Order Granting Petition to
23 Expunge or Seal Records. Unless a court has entered a
24 stay of an order granting a petition to immediately
25 expunge or seal, all parties entitled to service of
26 the order must fully comply with the terms of the order

1 within 60 days of service of the order.

2 (h) Sealing; trafficking victims.

3 (1) A trafficking victim as defined by paragraph (10)
4 of subsection (a) of Section 10-9 of the Criminal Code of
5 2012 shall be eligible to petition for immediate sealing
6 of his or her criminal record upon the completion of his or
7 her last sentence if his or her participation in the
8 underlying offense was a direct result of human
9 trafficking under Section 10-9 of the Criminal Code of
10 2012 or a severe form of trafficking under the federal
11 Trafficking Victims Protection Act.

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

22 (3) If an objection is filed alleging that the
23 petitioner is not entitled to immediate sealing under this
24 subsection (h), the court shall conduct a hearing under
25 paragraph (7) of subsection (d) of this Section and the
26 court shall determine whether the petitioner is entitled

1 to immediate sealing under this subsection (h). A
2 petitioner is eligible for immediate relief under this
3 subsection (h) if he or she shows, by a preponderance of
4 the evidence, that: (A) he or she was a victim of human
5 trafficking at the time of the offense; and (B) that his or
6 her participation in the offense was a direct result of
7 human trafficking under Section 10-9 of the Criminal Code
8 of 2012 or a severe form of trafficking under the federal
9 Trafficking Victims Protection Act.

10 (i) Minor Cannabis Offenses under the Cannabis Control
11 Act.

12 (1) Expungement of Arrest Records of Minor Cannabis
13 Offenses.

14 (A) The Department of State Police and all law
15 enforcement agencies within the State shall
16 automatically expunge all criminal history records of
17 an arrest, charge not initiated by arrest, order of
18 supervision, or order of qualified probation for a
19 Minor Cannabis Offense committed prior to June 25,
20 2019 (the effective date of Public Act 101-27) if:

21 (i) One year or more has elapsed since the
22 date of the arrest or law enforcement interaction
23 documented in the records; and

24 (ii) No criminal charges were filed relating
25 to the arrest or law enforcement interaction or
26 criminal charges were filed and subsequently

1 dismissed or vacated or the arrestee was
2 acquitted.

3 (B) If the law enforcement agency is unable to
4 verify satisfaction of condition (ii) in paragraph
5 (A), records that satisfy condition (i) in paragraph
6 (A) shall be automatically expunged.

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

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

13 (ii) Records created prior to January 1, 2013,
14 but on or after January 1, 2000, shall be
15 automatically expunged prior to January 1, 2023;

16 (iii) Records created prior to January 1, 2000
17 shall be automatically expunged prior to January
18 1, 2025.

19 In response to an inquiry for expunged records,
20 the law enforcement agency receiving such inquiry
21 shall reply as it does in response to inquiries when no
22 records ever existed; however, it shall provide a
23 certificate of disposition or confirmation that the
24 record was expunged to the individual whose record was
25 expunged if such a record exists.

26 (D) Nothing in this Section shall be construed to

1 restrict or modify an individual's right to have that
2 individual's records expunged except as otherwise may
3 be provided in this Act, or diminish or abrogate any
4 rights or remedies otherwise available to the
5 individual.

6 (2) Pardons Authorizing Expungement of Minor Cannabis
7 Offenses.

8 (A) Upon June 25, 2019 (the effective date of
9 Public Act 101-27), the Department of State Police
10 shall review all criminal history record information
11 and identify all records that meet all of the
12 following criteria:

13 (i) one or more convictions for a Minor
14 Cannabis Offense;

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

18 (iii) the conviction identified in paragraph
19 (2)(A)(i) is not associated with a conviction for
20 a violent crime as defined in subsection (c) of
21 Section 3 of the Rights of Crime Victims and
22 Witnesses Act.

23 (B) Within 180 days after June 25, 2019 (the
24 effective date of Public Act 101-27), the Department
25 of State Police shall notify the Prisoner Review Board
26 of all such records that meet the criteria established

1 in paragraph (2) (A).

2 (i) The Prisoner Review Board shall notify the
3 State's Attorney of the county of conviction of
4 each record identified by State Police in
5 paragraph (2) (A) that is classified as a Class 4
6 felony. The State's Attorney may provide a written
7 objection to the Prisoner Review Board on the sole
8 basis that the record identified does not meet the
9 criteria established in paragraph (2) (A). Such an
10 objection must be filed within 60 days or by such
11 later date set by the Prisoner Review Board in the
12 notice after the State's Attorney received notice
13 from the Prisoner Review Board.

14 (ii) In response to a written objection from a
15 State's Attorney, the Prisoner Review Board is
16 authorized to conduct a non-public hearing to
17 evaluate the information provided in the
18 objection.

19 (iii) The Prisoner Review Board shall make a
20 confidential and privileged recommendation to the
21 Governor as to whether to grant a pardon
22 authorizing expungement for each of the records
23 identified by the Department of State Police as
24 described in paragraph (2) (A).

25 (C) If an individual has been granted a pardon
26 authorizing expungement as described in this Section,

1 the Prisoner Review Board, through the Attorney
2 General, shall file a petition for expungement with
3 the Chief Judge of the circuit or any judge of the
4 circuit designated by the Chief Judge where the
5 individual had been convicted. Such petition may
6 include more than one individual. Whenever an
7 individual who has been convicted of an offense is
8 granted a pardon by the Governor that specifically
9 authorizes expungement, an objection to the petition
10 may not be filed. Petitions to expunge under this
11 subsection (i) may include more than one individual.
12 Within 90 days of the filing of such a petition, the
13 court shall enter an order expunging the records of
14 arrest from the official records of the arresting
15 authority and order that the records of the circuit
16 court clerk and the Department of State Police be
17 expunged and the name of the defendant obliterated
18 from the official index requested to be kept by the
19 circuit court clerk under Section 16 of the Clerks of
20 Courts Act in connection with the arrest and
21 conviction for the offense for which the individual
22 had received a pardon but the order shall not affect
23 any index issued by the circuit court clerk before the
24 entry of the order. Upon entry of the order of
25 expungement, the circuit court clerk shall promptly
26 provide a copy of the order and a certificate of

1 disposition to the individual who was pardoned to the
2 individual's last known address or by electronic means
3 (if available) or otherwise make it available to the
4 individual upon request.

5 (D) Nothing in this Section is intended to
6 diminish or abrogate any rights or remedies otherwise
7 available to the individual.

8 (3) Any individual may file a motion to vacate and
9 expunge a conviction for a misdemeanor or Class 4 felony
10 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. The circuit court clerk
15 shall promptly serve a copy of the motion to vacate and
16 expunge, and any supporting documentation, on the State's
17 Attorney or prosecutor charged with the duty of
18 prosecuting the offense. When considering such a motion to
19 vacate and expunge, a court shall consider the following:
20 the reasons to retain the records provided by law
21 enforcement, the petitioner's age, the petitioner's age at
22 the time of offense, the time since the conviction, and
23 the specific adverse consequences if denied. An individual
24 may file such a petition after the completion of any
25 non-financial sentence or non-financial condition imposed
26 by the conviction. Within 60 days of the filing of such

1 motion, a State's Attorney may file an objection to such a
2 petition along with supporting evidence. If a motion to
3 vacate and expunge is granted, the records shall be
4 expunged in accordance with subparagraphs (d)(8) and
5 (d)(9)(A) of this Section. An agency providing civil legal
6 aid, as defined by Section 15 of the Public Interest
7 Attorney Assistance Act, assisting individuals seeking to
8 file a motion to vacate and expunge under this subsection
9 may file motions to vacate and expunge with the Chief
10 Judge of a judicial circuit or any judge of the circuit
11 designated by the Chief Judge, and the motion may include
12 more than one individual. Motions filed by an agency
13 providing civil legal aid concerning more than one
14 individual may be prepared, presented, and signed
15 electronically.

16 (4) Any State's Attorney may file a motion to vacate
17 and expunge a conviction for a misdemeanor or Class 4
18 felony violation of Section 4 or Section 5 of the Cannabis
19 Control Act. Motions to vacate and expunge under this
20 subsection (i) may be filed with the circuit court, Chief
21 Judge of a judicial circuit or any judge of the circuit
22 designated by the Chief Judge, and may include more than
23 one individual. Motions filed by a State's Attorney
24 concerning more than one individual may be prepared,
25 presented, and signed electronically. When considering
26 such a motion to vacate and expunge, a court shall

1 consider the following: the reasons to retain the records
2 provided by law enforcement, the individual's age, the
3 individual's age at the time of offense, the time since
4 the conviction, and the specific adverse consequences if
5 denied. Upon entry of an order granting a motion to vacate
6 and expunge records pursuant to this Section, the State's
7 Attorney shall notify the Prisoner Review Board within 30
8 days. Upon entry of the order of expungement, the circuit
9 court clerk shall promptly provide a copy of the order and
10 a certificate of disposition to the individual whose
11 records will be expunged to the individual's last known
12 address or by electronic means (if available) or otherwise
13 make available to the individual upon request. If a motion
14 to vacate and expunge is granted, the records shall be
15 expunged in accordance with subparagraphs (d)(8) and
16 (d)(9)(A) of this Section.

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

21 (6) If a person is arrested for a Minor Cannabis
22 Offense as defined in this Section before June 25, 2019
23 (the effective date of Public Act 101-27) and the person's
24 case is still pending but a sentence has not been imposed,
25 the person may petition the court in which the charges are
26 pending for an order to summarily dismiss those charges

1 against him or her, and expunge all official records of
2 his or her arrest, plea, trial, conviction, incarceration,
3 supervision, or expungement. If the court determines, upon
4 review, that: (A) the person was arrested before June 25,
5 2019 (the effective date of Public Act 101-27) for an
6 offense that has been made eligible for expungement; (B)
7 the case is pending at the time; and (C) the person has not
8 been sentenced of the minor cannabis violation eligible
9 for expungement under this subsection, the court shall
10 consider the following: the reasons to retain the records
11 provided by law enforcement, the petitioner's age, the
12 petitioner's age at the time of offense, the time since
13 the conviction, and the specific adverse consequences if
14 denied. If a motion to dismiss and expunge is granted, the
15 records shall be expunged in accordance with subparagraph
16 (d) (9) (A) of this Section.

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

21 (8) The Department of State Police shall allow a
22 person to use the access and review process, established
23 in the Department of State Police, for verifying that his
24 or her records relating to Minor Cannabis Offenses of the
25 Cannabis Control Act eligible under this Section have been
26 expunged.

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

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

9 (11) Information. The Department of State Police shall
10 post general information on its website about the
11 expungement process described in this subsection (i).

12 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;
13 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.
14 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,
15 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
16 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
17 12-4-19; 101-645, eff. 6-26-20; revised 8-18-20.)