



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5591

Introduced 1/31/2022, by Rep. Lamont J. Robinson, Jr.

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act concerning expungement, sealing, and immediate sealing of arrest and court records. Provides that "petitioner" includes an attorney of a person who has petitioned for expungement or sealing under this provision or a person who has a power of attorney from a person entitled to petition for expungement or sealing under this provision, or a close relative of a deceased person who if he or she were alive would be entitled to petition for expungement or sealing under this provision. Defines "close relative of a deceased person" as the grandparent, parent, spouse, or adult brother, sister, or child of a deceased person. Provides that a close relative of a deceased person who, if not deceased, would be entitled to expungement, sealing, or immediate sealing of the records of his or her arrests and charges not initiated by arrest and court records, may file on behalf of the deceased person, a petition for expungement or sealing under this provision. Provides that if the court finds that the deceased person would be entitled to expungement or sealing of any record of his or her arrests and charges not initiated by arrest and court records that are the subject of the petition, the court shall enter an order directing expungement, sealing, or immediate sealing of those records.

LRB102 26094 RLC 35607 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 following Sections of the
14 Unified Code of Corrections, 730 ILCS 5/5-1-2 through
15 5/5-1-22:

16 ~~(i) Business Offense, Section 5-1-2. (730 ILCS~~
17 ~~5/5-1-2),~~

18 ~~(ii) Charge, Section 5-1-3. (730 ILCS~~
19 ~~5/5-1-3),~~

20 ~~(iii) Court, Section 5-1-6. (730 ILCS~~
21 ~~5/5-1-6),~~

22 ~~(iv) Defendant, Section 5-1-7. (730 ILCS~~
23 ~~5/5-1-7),~~

- 1 ~~(v) Felony, Section 5-1-9. ~~(730 ILCS 5/5-1-9),~~~~
2 ~~(vi) Imprisonment, Section 5-1-10. ~~(730 ILCS~~
3 ~~5/5-1-10),~~
4 ~~(vii) Judgment, Section 5-1-12. ~~(730 ILCS~~
5 ~~5/5-1-12),~~
6 ~~(viii) Misdemeanor, Section 5-1-14. ~~(730 ILCS~~
7 ~~5/5-1-14),~~
8 ~~(ix) Offense, Section 5-1-15. ~~(730 ILCS~~
9 ~~5/5-1-15),~~
10 ~~(x) Parole, Section 5-1-16. ~~(730 ILCS~~
11 ~~5/5-1-16),~~
12 ~~(xi) Petty Offense, Section 5-1-17. ~~(730 ILCS~~
13 ~~5/5-1-17),~~
14 ~~(xii) Probation, Section 5-1-18. ~~(730 ILCS~~
15 ~~5/5-1-18),~~
16 ~~(xiii) Sentence, Section 5-1-19. ~~(730 ILCS~~
17 ~~5/5-1-19),~~
18 ~~(xiv) Supervision, Section 5-1-21. ~~(730 ILCS~~
19 ~~5/5-1-21), and~~
20 ~~(xv) Victim, Section 5-1-22. ~~(730 ILCS~~
21 ~~5/5-1-22).~~~~~~~~~~~~~~~~~~~~~~

22 (B) As used in this Section, "charge not initiated
23 by arrest" means a charge (as defined by Section 5-1-3
24 of the Unified Code of Corrections ~~730 ILCS 5/5-1-3)~~
25 brought against a defendant where the defendant is not
26 arrested prior to or as a direct result of the charge.

1 (C) "Conviction" means a judgment of conviction or
2 sentence entered upon a plea of guilty or upon a
3 verdict or finding of guilty of an offense, rendered
4 by a legally constituted jury or by a court of
5 competent jurisdiction authorized to try the case
6 without a jury. An order of supervision successfully
7 completed by the petitioner is not a conviction. An
8 order of qualified probation (as defined in subsection
9 (a) (1) (J)) successfully completed by the petitioner is
10 not a conviction. An order of supervision or an order
11 of qualified probation that is terminated
12 unsatisfactorily is a conviction, unless the
13 unsatisfactory termination is reversed, vacated, or
14 modified and the judgment of conviction, if any, is
15 reversed or vacated.

16 (D) "Criminal offense" means a petty offense,
17 business offense, misdemeanor, felony, or municipal
18 ordinance violation (as defined in subsection
19 (a) (1) (H)). As used in this Section, a minor traffic
20 offense (as defined in subsection (a) (1) (G)) shall not
21 be considered a criminal offense.

22 (D-5) "Close relative of a deceased person" means
23 the grandparent, parent, spouse, or adult brother,
24 sister, or child of a deceased person.

25 (E) "Expunge" means to physically destroy the
26 records or return them to the petitioner and to

1 obliterate the petitioner's name from any official
2 index or public record, or both. Nothing in this Act
3 shall require the physical destruction of the circuit
4 court file, but such records relating to arrests or
5 charges, or both, ordered expunged shall be impounded
6 as required by subsections (d)(9)(A)(ii) and
7 (d)(9)(B)(ii).

8 (F) As used in this Section, "last sentence" means
9 the sentence, order of supervision, or order of
10 qualified probation (as defined by subsection
11 (a)(1)(J)), for a criminal offense (as defined by
12 subsection (a)(1)(D)) that terminates last in time in
13 any jurisdiction, regardless of whether the petitioner
14 has included the criminal offense for which the
15 sentence or order of supervision or qualified
16 probation was imposed in his or her petition. If
17 multiple sentences, orders of supervision, or orders
18 of qualified probation terminate on the same day and
19 are last in time, they shall be collectively
20 considered the "last sentence" regardless of whether
21 they were ordered to run concurrently.

22 (G) "Minor traffic offense" means a petty offense,
23 business offense, or Class C misdemeanor under the
24 Illinois Vehicle Code or a similar provision of a
25 municipal or local ordinance.

26 (G-5) "Minor Cannabis Offense" means a violation

1 of Section 4 or 5 of the Cannabis Control Act
2 concerning not more than 30 grams of any substance
3 containing cannabis, provided the violation did not
4 include a penalty enhancement under Section 7 of the
5 Cannabis Control Act and is not associated with an
6 arrest, conviction or other disposition for a violent
7 crime as defined in subsection (c) of Section 3 of the
8 Rights of Crime Victims and Witnesses Act.

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

14 (I) "Petitioner" means an adult or a minor
15 prosecuted as an adult who has petitioned ~~applied~~ for
16 expungement or sealing ~~relief~~ under this Section.
17 "Petitioner" includes an attorney of a person who has
18 petitioned for expungement or sealing under this
19 Section or a person who has a power of attorney from a
20 person entitled to petition for expungement or sealing
21 under this Section, or a close relative of a deceased
22 person who if he or she were alive would be entitled to
23 petition for expungement or sealing under this
24 Section.

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

1 Act, Section 410 of the Illinois Controlled Substances
2 Act, 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
24 court clerk under Section 16 of the Clerks of Courts
25 Act, but any index issued by the circuit court clerk
26 before the entry of the order to seal shall not be

1 affected.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (D) (blank).

13 (b) Expungement.

14 (1) A petitioner, or close relative of a deceased
15 person, may petition the circuit court to expunge the
16 records of his or her arrests and charges not initiated by
17 arrest when each arrest or charge not initiated by arrest
18 sought to be expunged resulted in: (i) acquittal,
19 dismissal, or the petitioner's release without charging,
20 unless excluded by subsection (a)(3)(B); (ii) a conviction
21 which was vacated or reversed, unless excluded by
22 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 (1.2) A close relative of a deceased person who, if
3 not deceased, would be entitled to expungement, sealing,
4 or immediate sealing of the records of his or her arrests
5 and charges not initiated by arrest and court records, may
6 file on behalf of the deceased person, a petition for
7 expungement or sealing under this Section. If the court
8 finds that the deceased person would be entitled to
9 expungement or sealing of any record of his or her arrests
10 and charges not initiated by arrest and court records that
11 are the subject of the petition, the court shall enter an
12 order directing expungement, sealing, or immediate sealing
13 of those records.

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

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

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

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

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

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

26 (ii) Those arrests or charges that resulted in

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

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

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

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

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

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

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

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

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

1 Alcoholism and Other Drug Dependency Act, Section 40-10 of
2 the Substance Use Disorder Act, or Section 10 of the
3 Steroid Control Act.

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

11 (c) Sealing.

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

19 (2) Eligible Records. The following records may be
20 sealed:

21 (A) All arrests resulting in release without
22 charging;

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

1 (C) Arrests or charges not initiated by arrest
2 resulting in orders of supervision, including orders
3 of supervision for municipal ordinance violations,
4 successfully completed by the petitioner, unless
5 excluded by subsection (a) (3);

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

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

17 (F) Arrests or charges not initiated by arrest
18 resulting in felony convictions unless otherwise
19 excluded by subsection (a) paragraph (3) of this
20 Section.

21 (3) When Records Are Eligible to Be Sealed. Records
22 identified as eligible under subsection (c) (2) may be
23 sealed as follows:

24 (A) Records identified as eligible under
25 subsection (c) (2) (A) and (c) (2) (B) may be sealed at
26 any time.

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

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

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

20 (E) Records identified as eligible under
21 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or
22 (c)(2)(F) may be sealed upon termination of the
23 petitioner's last sentence if the petitioner earned a
24 high school diploma, associate's degree, career
25 certificate, vocational technical certification, or
26 bachelor's degree, or passed the high school level

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

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

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

24 (d) Procedure. The following procedures apply to
25 expungement under subsections (b), (e), and (e-6) and sealing
26 under subsections (c) and (e-5):

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

13 (1.5) County fee waiver pilot program. From August 9,
14 2019 (the effective date of Public Act 101-306) through
15 December 31, 2020, in a county of 3,000,000 or more
16 inhabitants, no fee shall be required to be paid by a
17 petitioner if the records sought to be expunged or sealed
18 were arrests resulting in release without charging or
19 arrests or charges not initiated by arrest resulting in
20 acquittal, dismissal, or conviction when the conviction
21 was reversed or vacated, unless excluded by subsection
22 (a) (3) (B). The provisions of this paragraph (1.5), other
23 than this sentence, are inoperative on and after January
24 1, 2022.

25 (2) Contents of petition. The petition shall be
26 verified and shall contain the petitioner's name, date of

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

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

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

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

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

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

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

11 (5) Objections.

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

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

23 (6) Entry of order.

24 (A) The Chief Judge of the circuit wherein the
25 charge was brought, any judge of that circuit
26 designated by the Chief Judge, or in counties of less

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

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

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

1 applicable federal, State, or local law.

2 (7) Hearings. If an objection is filed, the court
3 shall set a date for a hearing and notify the petitioner
4 and all parties entitled to notice of the petition of the
5 hearing date at least 30 days prior to the hearing. Prior
6 to the hearing, the State's Attorney shall consult with
7 the Illinois State Police ~~Department~~ as to the
8 appropriateness of the relief sought in the petition to
9 expunge or seal. At the hearing, the court shall hear
10 evidence on whether the petition should or should not be
11 granted, and shall grant or deny the petition to expunge
12 or seal the records based on the evidence presented at the
13 hearing. The court may consider the following:

14 (A) the strength of the evidence supporting the
15 defendant's conviction;

16 (B) the reasons for retention of the conviction
17 records by the State;

18 (C) the petitioner's age, criminal record history,
19 and employment history;

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

23 (E) the specific adverse consequences the
24 petitioner may be subject to if the petition is
25 denied.

26 (8) Service of order. After entering an order to

1 expunge or seal records, the court must provide copies of
2 the order to the Illinois State Police ~~Department~~, in a
3 form and manner prescribed by the Illinois State Police
4 ~~Department~~, to the petitioner, to the State's Attorney or
5 prosecutor charged with the duty of prosecuting the
6 offense, to the arresting agency, to the chief legal
7 officer of the unit of local government effecting the
8 arrest, and to such other criminal justice agencies as may
9 be ordered by the court.

10 (9) Implementation of order.

11 (A) Upon entry of an order to expunge records
12 pursuant to subsection (b) (2) (A) or (b) (2) (B) (ii), or
13 both:

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

22 (ii) the records of the circuit court clerk
23 shall be impounded until further order of the
24 court 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 and

5 (iii) in response to an inquiry for expunged
6 records, the court, the Illinois State Police
7 ~~Department~~, or the agency receiving such inquiry,
8 shall reply as it does in response to inquiries
9 when no records ever existed.

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

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

20 (ii) the records of the circuit court clerk
21 shall be impounded until further order of the
22 court upon good cause shown and the name of the
23 petitioner obliterated on the official index
24 required to be kept by the circuit court clerk
25 under Section 16 of the Clerks of Courts Act, but
26 the order shall not affect any index issued by the

1 circuit court clerk before the entry of the order;

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

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

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

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

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

1 and any other agency as ordered by the court,
2 within 60 days of the date of service of the order,
3 unless a motion to vacate, modify, or reconsider
4 the order is filed under paragraph (12) of
5 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 (iii) the records shall be impounded by the
15 Illinois State Police Department within 60 days of
16 the date of service of the order as ordered by the
17 court, unless a motion to vacate, modify, or
18 reconsider the order is filed under paragraph (12)
19 of subsection (d) of this Section;

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

1 Department of Corrections upon conviction for any
2 offense; and

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

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

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

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

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

24 (F) Notwithstanding any other provision of this
25 Section, a circuit court clerk may access a sealed
26 record for the limited purpose of collecting payment

1 for any legal financial obligations that were
2 established, imposed, or originated in the criminal
3 proceedings for which those records have been sealed.

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

24 (11) Final Order. No court order issued under the
25 expungement or sealing provisions of this Section shall
26 become final for purposes of appeal until 30 days after

1 service of the order on the petitioner and all parties
2 entitled to notice of the petition.

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

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

24 (14) Compliance with Order Granting Petition to Seal
25 Records. Unless a court has entered a stay of an order
26 granting a petition to seal, all parties entitled to

1 notice of the petition must fully comply with the terms of
2 the order within 60 days of service of the order even if a
3 party is seeking relief from the order through a motion
4 filed under paragraph (12) of this subsection (d) or is
5 appealing the order.

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

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

21 (e) Whenever a person who has been convicted of an offense
22 is granted a pardon by the Governor which specifically
23 authorizes expungement, he or she may, upon verified petition
24 to the Chief Judge of the circuit where the person had been
25 convicted, any judge of the circuit designated by the Chief
26 Judge, or in counties of less than 3,000,000 inhabitants, the

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

24 (e-5) Whenever a person who has been convicted of an
25 offense is granted a certificate of eligibility for sealing by
26 the Prisoner Review Board which specifically authorizes

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

1 a copy of the order to the person who was granted the
2 certificate of eligibility for sealing.

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

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

21 (g) Immediate Sealing.

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

1 prosecuted as adults.

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

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

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

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

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

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

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

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

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

24 (E) Entry of Order. The presiding trial judge
25 shall enter an order granting or denying the petition
26 for immediate sealing during the hearing in which it

1 is filed. Petitions for immediate sealing shall be
2 ruled on in the same hearing in which the final
3 disposition of the case is entered.

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

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

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

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

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

22 (K) Motion to Vacate, Modify, or Reconsider. Under
23 Section 2-1203 of the Code of Civil Procedure, the
24 petitioner, State's Attorney, or the Illinois
25 ~~Department of~~ State Police may file a motion to
26 vacate, modify, or reconsider the order denying the

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

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

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

21 (h) Sealing; trafficking victims.

22 (1) A trafficking victim as defined by paragraph (10)
23 of subsection (a) of Section 10-9 of the Criminal Code of
24 2012 shall be eligible to petition for immediate sealing
25 of his or her criminal record upon the completion of his or
26 her last sentence if his or her participation in the

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

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

15 (3) If an objection is filed alleging that the
16 petitioner is not entitled to immediate sealing under this
17 subsection (h), the court shall conduct a hearing under
18 paragraph (7) of subsection (d) of this Section and the
19 court shall determine whether the petitioner is entitled
20 to immediate sealing under this subsection (h). A
21 petitioner is eligible for immediate relief under this
22 subsection (h) if he or she shows, by a preponderance of
23 the evidence, that: (A) he or she was a victim of human
24 trafficking at the time of the offense; and (B) that his or
25 her participation in the offense was a direct result of
26 human trafficking under Section 10-9 of the Criminal Code

1 of 2012 or a severe form of trafficking under the federal
2 Trafficking Victims Protection Act.

3 (i) Minor Cannabis Offenses under the Cannabis Control
4 Act.

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

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

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

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

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

26 (C) Records shall be expunged by the law

1 enforcement agency under the following timelines:

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

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

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

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

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

25 (2) Pardons Authorizing Expungement of Minor Cannabis
26 Offenses.

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

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

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

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

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

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

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

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

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

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

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

24 (D) Nothing in this Section is intended to
25 diminish or abrogate any rights or remedies otherwise
26 available 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
4 Control Act. Motions to vacate and expunge under this
5 subsection (i) may be filed with the circuit court, Chief
6 Judge of a judicial circuit or any judge of the circuit
7 designated by the Chief Judge. The circuit court clerk
8 shall promptly serve a copy of the motion to vacate and
9 expunge, and any supporting documentation, on the State's
10 Attorney or prosecutor charged with the duty of
11 prosecuting the offense. When considering such a motion to
12 vacate and expunge, a court shall consider the following:
13 the reasons to retain the records provided by law
14 enforcement, the petitioner's age, the petitioner's age at
15 the time of offense, the time since the conviction, and
16 the specific adverse consequences if denied. An individual
17 may file such a petition after the completion of any
18 non-financial sentence or non-financial condition imposed
19 by the conviction. Within 60 days of the filing of such
20 motion, a State's Attorney may file an objection to such a
21 petition along with supporting evidence. If a motion to
22 vacate and expunge is granted, the records shall be
23 expunged in accordance with subparagraphs (d)(8) and
24 (d)(9)(A) of this Section. An agency providing civil legal
25 aid, as defined by Section 15 of the Public Interest
26 Attorney Assistance Act, assisting individuals seeking to

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

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

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

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

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

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

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

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

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

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

1 before the arrest, charge, or conviction.

2 (11) Information. The Illinois ~~Department of~~ State
3 Police shall post general information on its website about
4 the expungement process described in this subsection (i).

5 (j) Felony Prostitution Convictions.

6 (1) Any individual may file a motion to vacate and
7 expunge a conviction for a prior Class 4 felony violation
8 of prostitution. Motions to vacate and expunge under this
9 subsection (j) may be filed with the circuit court, Chief
10 Judge of a judicial circuit, or any judge of the circuit
11 designated by the Chief Judge. When considering the motion
12 to vacate and expunge, a court shall consider the
13 following:

14 (A) the reasons to retain the records provided by
15 law enforcement;

16 (B) the petitioner's age;

17 (C) the petitioner's age at the time of offense;

18 and

19 (D) the time since the conviction, and the
20 specific adverse consequences if denied. An individual
21 may file the petition after the completion of any
22 sentence or condition imposed by the conviction.
23 Within 60 days of the filing of the motion, a State's
24 Attorney may file an objection to the petition along
25 with supporting evidence. If a motion to vacate and
26 expunge is granted, the records shall be expunged in

1 accordance with subparagraph (d)(9)(A) of this
2 Section. An agency providing civil legal aid, as
3 defined in Section 15 of the Public Interest Attorney
4 Assistance Act, assisting individuals seeking to file
5 a motion to vacate and expunge under this subsection
6 may file motions to vacate and expunge with the Chief
7 Judge of a judicial circuit or any judge of the circuit
8 designated by the Chief Judge, and the motion may
9 include more than one individual.

10 (2) Any State's Attorney may file a motion to vacate
11 and expunge a conviction for a Class 4 felony violation of
12 prostitution. Motions to vacate and expunge under this
13 subsection (j) may be filed with the circuit court, Chief
14 Judge of a judicial circuit, or any judge of the circuit
15 court designated by the Chief Judge, and may include more
16 than one individual. When considering the motion to vacate
17 and expunge, a court shall consider the following reasons:

18 (A) the reasons to retain the records provided by
19 law enforcement;

20 (B) the petitioner's age;

21 (C) the petitioner's age at the time of offense;

22 (D) the time since the conviction; and

23 (E) the specific adverse consequences if denied.

24 If the State's Attorney files a motion to vacate and
25 expunge records for felony prostitution convictions
26 pursuant to this Section, the State's Attorney shall

1 notify the Prisoner Review Board within 30 days of the
2 filing. If a motion to vacate and expunge is granted, the
3 records shall be expunged in accordance with subparagraph
4 (d) (9) (A) of this Section.

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

9 (4) The Illinois State Police shall allow a person to
10 use the access and review process, established in the
11 Illinois State Police, for verifying that his or her
12 records relating to felony prostitution eligible under
13 this Section have been expunged.

14 (5) No conviction vacated pursuant to this Section
15 shall serve as the basis for damages for time unjustly
16 served as provided in the Court of Claims Act.

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

22 (7) Information. The Illinois State Police shall post
23 general information on its website about the expungement
24 process described in this subsection (j).

25 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
26 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.

1 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;
2 102-558, 8-20-21; 102-639, eff. 8-27-21; revised 10-5-21.)