

HB3846



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3846

Introduced 2/17/2023, by Rep. Cyril Nichols

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides for expungement of minor cannabis offenses (as that term is defined in the Act) after receipt of a certified copy of a diploma issued by an Illinois community college by a law enforcement agency that issued a citation relating to a minor cannabis offense from a person who was convicted of the minor cannabis offense.

LRB103 26748 AWJ 53111 b

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement, 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:

15 Business Offense, Section 5-1-2.

16 Charge, Section 5-1-3.

17 Court, Section 5-1-6.

18 Defendant, Section 5-1-7.

19 Felony, Section 5-1-9.

20 Imprisonment, Section 5-1-10.

21 Judgment, Section 5-1-12.

22 Misdemeanor, Section 5-1-14.

23 Offense, Section 5-1-15.

1 Parole, Section 5-1-16.
2 Petty Offense, Section 5-1-17.
3 Probation, Section 5-1-18.
4 Sentence, Section 5-1-19.
5 Supervision, Section 5-1-21.
6 Victim, Section 5-1-22.

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

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

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

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

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

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

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

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

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

22 (I) "Petitioner" means an adult or a minor
23 prosecuted as an adult who has applied for relief
24 under this 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 (2.7) No later than 30 days after receipt of a
17 certified copy of a diploma issued by an Illinois
18 community college by a law enforcement agency that issued
19 a citation relating to a minor cannabis offense from a
20 person who was convicted of the minor cannabis offense,
21 the law enforcement agency shall expunge the records of
22 the person found to have committed such violation in the
23 law enforcement agency's possession or control and which
24 contains the final satisfactory disposition which pertain
25 to the person issued a citation for that offense. After
26 the expungement is complete, the law enforcement agency

1 shall notify the clerk of the circuit court, where the
2 criminal file relating to the person's conviction is kept,
3 that the expungement is complete. Each law enforcement
4 agency shall provide by rule the process for access,
5 review, and to confirm the expungement by the law
6 enforcement agency issuing the citation.

7 After receipt of a confirmation from a law enforcement
8 agency that expunged the records of a person under this
9 paragraph, the clerk of the circuit court shall expunge,
10 upon order of the court, or in the absence of a court order
11 on or before January 1 and July 1 of each year, the court
12 records of a person related to the law enforcement file
13 that the law enforcement agency expunged under this
14 paragraph in the clerk's possession or control and which
15 contains the final satisfactory disposition which pertain
16 to the person 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) Section ~~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.

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

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

1 passed following the satisfactory termination of
2 the supervision.

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

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

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

25 (3) Those records maintained by the Illinois State
26 Police for persons arrested prior to their 17th birthday

1 shall be expunged as provided in Section 5-915 of the
2 Juvenile Court Act of 1987.

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

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

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

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

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

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

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

25 (c) Sealing.

26 (1) Applicability. Notwithstanding any other provision

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

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

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

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

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

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

23 (E) Arrests or charges not initiated by arrest
24 resulting in orders of first offender probation under
25 Section 10 of the Cannabis Control Act, Section 410 of
26 the Illinois Controlled Substances Act, Section 70 of

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

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

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

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

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

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

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

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

7 (E) Records identified as eligible under
8 subsection ~~subsections~~ (c) (2) (C), (c) (2) (D),
9 (c) (2) (E), or (c) (2) (F) may be sealed upon termination
10 of the petitioner's last sentence if the petitioner
11 earned a high school diploma, associate's degree,
12 career certificate, vocational technical
13 certification, or bachelor's degree, or passed the
14 high school level Test of General Educational
15 Development, during the period of his or her sentence
16 or mandatory supervised release. This subparagraph
17 shall apply only to a petitioner who has not completed
18 the same educational goal prior to the period of his or
19 her sentence or mandatory supervised release. If a
20 petition for sealing eligible records filed under this
21 subparagraph is denied by the court, the time periods
22 under subparagraph (B) or (C) shall apply to any
23 subsequent petition for sealing filed by the
24 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 taken within 30
3 days before the filing of the petition a test showing the
4 absence within his or her body of all illegal substances
5 as defined by the Illinois Controlled Substances Act and
6 the Methamphetamine Control and Community Protection Act
7 if he or she is petitioning to:

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

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

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

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

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

23 (5) Objections.

24 (A) Any party entitled to notice of the petition
25 may file an objection to the petition. All objections
26 shall be in writing, shall be filed with the circuit

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

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

9 (6) Entry of order.

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

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

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

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

14 (D) Notwithstanding any other provision of law,
15 the court shall not deny a petition to expunge or seal
16 under this Section because the petitioner has
17 submitted a drug test taken within 30 days before the
18 filing of the petition to expunge or seal that
19 indicates a positive test for the presence of cannabis
20 within the petitioner's body. In this subparagraph
21 (D), "cannabis" has the meaning ascribed to it in
22 Section 3 of the Cannabis Control Act.

23 (7) Hearings. If an objection is filed, the court
24 shall set a date for a hearing and notify the petitioner
25 and all parties entitled to notice of the petition of the
26 hearing date at least 30 days prior to the hearing. Prior

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

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

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

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

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

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

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

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

4 (9) Implementation of order.

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

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

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

25 (iii) in response to an inquiry for expunged
26 records, the court, the Illinois State Police, or

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

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

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 pursuant to 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 Illinois State Police within 60 days of the date
24 of service of the order as ordered by the court,
25 unless a motion to vacate, modify, or reconsider
26 the order is filed pursuant to paragraph (12) of

1 subsection (d) of this Section;

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

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

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

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

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

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

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

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

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

1 (C) Upon entry of an order to seal records under
2 subsection (c), the arresting agency, any other agency
3 as ordered by the court, the Illinois State Police,
4 and the court shall seal the records (as defined in
5 subsection (a)(1)(K)). In response to an inquiry for
6 such records, from anyone not authorized by law to
7 access such records, the court, the Illinois State
8 Police, or the agency receiving such inquiry shall
9 reply as it does in response to inquiries when no
10 records ever existed.

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

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

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

21 (10) Fees. The Illinois State Police may charge the
22 petitioner a fee equivalent to the cost of processing any
23 order to expunge or seal records. Notwithstanding any
24 provision of the Clerks of Courts Act to the contrary, the
25 circuit court clerk may charge a fee equivalent to the
26 cost associated with the sealing or expungement of records

1 by the circuit court clerk. From the total filing fee
2 collected for the petition to seal or expunge, the circuit
3 court clerk shall deposit \$10 into the Circuit Court Clerk
4 Operation and Administrative Fund, to be used to offset
5 the costs incurred by the circuit court clerk in
6 performing the additional duties required to serve the
7 petition to seal or expunge on all parties. The circuit
8 court clerk shall collect and remit the Illinois State
9 Police portion of the fee to the State Treasurer and it
10 shall be deposited in the State Police Services Fund. If
11 the record brought under an expungement petition was
12 previously sealed under this Section, the fee for the
13 expungement petition for that same record shall be waived.

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

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

1 2-1401 of the Code of Civil Procedure. Upon filing of a
2 motion to vacate, modify, or reconsider, notice of the
3 motion shall be served upon the petitioner and all parties
4 entitled to notice of the petition.

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

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

22 (15) Compliance with Order Granting Petition to
23 Expunge Records. While a party is seeking relief from the
24 order granting the petition to expunge through a motion
25 filed under paragraph (12) of this subsection (d) or is
26 appealing the order, and unless a court has entered a stay

1 of that order, the parties entitled to notice of the
2 petition must seal, but need not expunge, the records
3 until there is a final order on the motion for relief or,
4 in the case of an appeal, the issuance of that court's
5 mandate.

6 (16) The changes to this subsection (d) made by Public
7 Act 98-163 apply to all petitions pending on August 5,
8 2013 (the effective date of Public Act 98-163) and to all
9 orders ruling on a petition to expunge or seal on or after
10 August 5, 2013 (the effective date of Public Act 98-163).

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

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

13 (e-5) Whenever a person who has been convicted of an
14 offense is granted a certificate of eligibility for sealing by
15 the Prisoner Review Board which specifically authorizes
16 sealing, he or she may, upon verified petition to the Chief
17 Judge of the circuit where the person had been convicted, any
18 judge of the circuit designated by the Chief Judge, or in
19 counties of less than 3,000,000 inhabitants, the presiding
20 trial judge at the petitioner's trial, have a court order
21 entered sealing the record of arrest from the official records
22 of the arresting authority and order that the records of the
23 circuit court clerk and the Illinois State Police be sealed
24 until further order of the court upon good cause shown or as
25 otherwise provided herein, and the name of the petitioner
26 obliterated from the official index requested to be kept by

1 the circuit court clerk under Section 16 of the Clerks of
2 Courts Act in connection with the arrest and conviction for
3 the offense for which he or she had been granted the
4 certificate but the order shall not affect any index issued by
5 the circuit court clerk before the entry of the order. All
6 records sealed by the Illinois State Police may be
7 disseminated by the Illinois State Police only as required by
8 this Act or to the arresting authority, a law enforcement
9 agency, the State's Attorney, and the court upon a later
10 arrest for the same or similar offense or for the purpose of
11 sentencing for any subsequent felony. Upon conviction for any
12 subsequent offense, the Department of Corrections shall have
13 access to all sealed records of the Illinois State Police
14 pertaining to that individual. Upon entry of the order of
15 sealing, the circuit court clerk shall promptly mail a copy of
16 the order to the person who was granted the certificate of
17 eligibility for sealing.

18 (e-6) Whenever a person who has been convicted of an
19 offense is granted a certificate of eligibility for
20 expungement by the Prisoner Review Board which specifically
21 authorizes expungement, he or she may, upon verified petition
22 to the Chief Judge of the circuit where the person had been
23 convicted, any judge of the circuit designated by the Chief
24 Judge, or in counties of less than 3,000,000 inhabitants, the
25 presiding trial judge at the petitioner's trial, have a court
26 order entered expunging the record of arrest from the official

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

23 (f) Subject to available funding, the Illinois Department
24 of Corrections shall conduct a study of the impact of sealing,
25 especially on employment and recidivism rates, utilizing a
26 random sample of those who apply for the sealing of their

1 criminal records under Public Act 93-211. At the request of
2 the Illinois Department of Corrections, records of the
3 Illinois Department of Employment Security shall be utilized
4 as appropriate to assist in the study. The study shall not
5 disclose any data in a manner that would allow the
6 identification of any particular individual or employing unit.
7 The study shall be made available to the General Assembly no
8 later than September 1, 2010.

9 (g) Immediate Sealing.

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

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

23 (3) When Records are Eligible to be Immediately
24 Sealed. Eligible records under paragraph (2) of this
25 subsection (g) may be sealed immediately after entry of
26 the final disposition of a case, notwithstanding the

1 disposition of other charges in the same case.

2 (4) Notice of Eligibility for Immediate Sealing. Upon
3 entry of a disposition for an eligible record under this
4 subsection (g), the defendant shall be informed by the
5 court of his or her right to have eligible records
6 immediately sealed and the procedure for the immediate
7 sealing of these records.

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

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

23 (B) Contents of Petition. The immediate sealing
24 petition shall be verified and shall contain the
25 petitioner's name, date of birth, current address, and
26 for each eligible record, the case number, the date of

1 arrest if applicable, the identity of the arresting
2 authority if applicable, and other information as the
3 court may require.

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

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

11 (E) Entry of Order. The presiding trial judge
12 shall enter an order granting or denying the petition
13 for immediate sealing during the hearing in which it
14 is filed. Petitions for immediate sealing shall be
15 ruled on in the same hearing in which the final
16 disposition of the case is entered.

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

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

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

26 (I) Fees. The fee imposed by the circuit court

1 clerk and the Illinois State Police shall comply with
2 paragraph (1) of subsection (d) of this Section.

3 (J) Final Order. No court order issued under this
4 subsection (g) shall become final for purposes of
5 appeal until 30 days after service of the order on the
6 petitioner and all parties entitled to service of the
7 order in conformance with subsection (d) (8).

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

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

1 (M) Compliance with Order Granting Petition to
2 Seal Records. Unless a court has entered a stay of an
3 order granting a petition to immediately seal, all
4 parties entitled to service of the order must fully
5 comply with the terms of the order within 60 days of
6 service of the order.

7 (h) Sealing; trafficking victims.

8 (1) A trafficking victim as defined by paragraph (10)
9 of subsection (a) of Section 10-9 of the Criminal Code of
10 2012 shall be eligible to petition for immediate sealing
11 of his or her criminal record upon the completion of his or
12 her last sentence if his or her participation in the
13 underlying offense was a direct result of human
14 trafficking under Section 10-9 of the Criminal Code of
15 2012 or a severe form of trafficking under the federal
16 Trafficking Victims Protection Act.

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

1 (3) If an objection is filed alleging that the
2 petitioner is not entitled to immediate sealing under this
3 subsection (h), the court shall conduct a hearing under
4 paragraph (7) of subsection (d) of this Section and the
5 court shall determine whether the petitioner is entitled
6 to immediate sealing under this subsection (h). A
7 petitioner is eligible for immediate relief under this
8 subsection (h) if he or she shows, by a preponderance of
9 the evidence, that: (A) he or she was a victim of human
10 trafficking at the time of the offense; and (B) that his or
11 her participation in the offense was a direct result of
12 human trafficking under Section 10-9 of the Criminal Code
13 of 2012 or a severe form of trafficking under the federal
14 Trafficking Victims Protection Act.

15 (i) Minor Cannabis Offenses under the Cannabis Control
16 Act.

17 (1) Expungement of Arrest Records of Minor Cannabis
18 Offenses.

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

26 (i) One year or more has elapsed since the

1 date of the arrest or law enforcement interaction
2 documented in the records; and

3 (ii) No criminal charges were filed relating
4 to the arrest or law enforcement interaction or
5 criminal charges were filed and subsequently
6 dismissed or vacated or the arrestee was
7 acquitted.

8 (B) If the law enforcement agency is unable to
9 verify satisfaction of condition (ii) in paragraph
10 (A), records that satisfy condition (i) in paragraph
11 (A) shall be automatically expunged.

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

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

18 (ii) Records created prior to January 1, 2013,
19 but on or after January 1, 2000, shall be
20 automatically expunged prior to January 1, 2023;

21 (iii) Records created prior to January 1, 2000
22 shall be automatically expunged prior to January
23 1, 2025.

24 In response to an inquiry for expunged records,
25 the law enforcement agency receiving such inquiry
26 shall reply as it does in response to inquiries when no

1 records ever existed; however, it shall provide a
2 certificate of disposition or confirmation that the
3 record was expunged to the individual whose record was
4 expunged if such a record exists.

5 (D) Nothing in this Section shall be construed to
6 restrict or modify an individual's right to have that
7 individual's records expunged except as otherwise may
8 be provided in this Act, or diminish or abrogate any
9 rights or remedies otherwise available to the
10 individual.

11 (2) Pardons Authorizing Expungement of Minor Cannabis
12 Offenses.

13 (A) Upon June 25, 2019 (the effective date of
14 Public Act 101-27), the Department of State Police
15 shall review all criminal history record information
16 and identify all records that meet all of the
17 following criteria:

18 (i) one or more convictions for a Minor
19 Cannabis Offense;

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

23 (iii) the conviction identified in paragraph
24 (2)(A)(i) is not associated with a conviction for
25 a violent crime as defined in subsection (c) of
26 Section 3 of the Rights of Crime Victims and

1 Witnesses Act.

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

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

19 (ii) In response to a written objection from a
20 State's Attorney, the Prisoner Review Board is
21 authorized to conduct a non-public hearing to
22 evaluate the information provided in the
23 objection.

24 (iii) The Prisoner Review Board shall make a
25 confidential and privileged recommendation to the
26 Governor as to whether to grant a pardon

1 authorizing expungement for each of the records
2 identified by the Department of State Police as
3 described in paragraph (2) (A).

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

1 pardon but the order shall not affect any index issued
2 by the circuit court clerk before the entry of the
3 order. Upon entry of the order of expungement, the
4 circuit court clerk shall promptly provide a copy of
5 the order and a certificate of disposition to the
6 individual who was pardoned to the individual's last
7 known address or by electronic means (if available) or
8 otherwise make it available to the individual upon
9 request.

10 (D) Nothing in this Section is intended to
11 diminish or abrogate any rights or remedies otherwise
12 available to the individual.

13 (3) Any individual may file a motion to vacate and
14 expunge a conviction for a misdemeanor or Class 4 felony
15 violation of Section 4 or Section 5 of the Cannabis
16 Control Act. Motions to vacate and expunge under this
17 subsection (i) may be filed with the circuit court, Chief
18 Judge of a judicial circuit or any judge of the circuit
19 designated by the Chief Judge. The circuit court clerk
20 shall promptly serve a copy of the motion to vacate and
21 expunge, and any supporting documentation, on the State's
22 Attorney or prosecutor charged with the duty of
23 prosecuting the offense. When considering such a motion to
24 vacate and expunge, a court shall consider the following:
25 the reasons to retain the records provided by law
26 enforcement, the petitioner's age, the petitioner's age at

1 the time of offense, the time since the conviction, and
2 the specific adverse consequences if denied. An individual
3 may file such a petition after the completion of any
4 non-financial sentence or non-financial condition imposed
5 by the conviction. Within 60 days of the filing of such
6 motion, a State's Attorney may file an objection to such a
7 petition along with supporting evidence. If a motion to
8 vacate and expunge is granted, the records shall be
9 expunged in accordance with subparagraphs (d)(8) and
10 (d)(9)(A) of this Section. An agency providing civil legal
11 aid, as defined by Section 15 of the Public Interest
12 Attorney Assistance Act, assisting individuals seeking to
13 file a motion to vacate and expunge under this subsection
14 may file motions to vacate and expunge with the Chief
15 Judge of a judicial circuit or any judge of the circuit
16 designated by the Chief Judge, and the motion may include
17 more than one individual. Motions filed by an agency
18 providing civil legal aid concerning more than one
19 individual may be prepared, presented, and signed
20 electronically.

21 (4) Any State's Attorney may file a motion to vacate
22 and expunge a conviction for a misdemeanor or Class 4
23 felony violation of Section 4 or Section 5 of the Cannabis
24 Control Act. Motions to vacate and expunge under this
25 subsection (i) may be filed with the circuit court, Chief
26 Judge of a judicial circuit or any judge of the circuit

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

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

26 (6) If a person is arrested for a Minor Cannabis

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

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

26 (8) The Illinois State Police shall allow a person to

1 use the access and review process, established in the
2 Illinois State Police, for verifying that his or her
3 records relating to Minor Cannabis Offenses of the
4 Cannabis Control Act eligible under this Section have been
5 expunged.

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

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

14 (11) Information. The Illinois State Police shall post
15 general information on its website about the expungement
16 process described in this subsection (i).

17 (j) Felony Prostitution Convictions.

18 (1) Any individual may file a motion to vacate and
19 expunge a conviction for a prior Class 4 felony violation
20 of prostitution. Motions to vacate and expunge under this
21 subsection (j) may be filed with the circuit court, Chief
22 Judge of a judicial circuit, or any judge of the circuit
23 designated by the Chief Judge. When considering the motion
24 to vacate and expunge, a court shall consider the
25 following:

26 (A) the reasons to retain the records provided by

1 law enforcement;

2 (B) the petitioner's age;

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

4 and

5 (D) the time since the conviction, and the
6 specific adverse consequences if denied. An individual
7 may file the petition after the completion of any
8 sentence or condition imposed by the conviction.
9 Within 60 days of the filing of the motion, a State's
10 Attorney may file an objection to the petition along
11 with supporting evidence. If a motion to vacate and
12 expunge is granted, the records shall be expunged in
13 accordance with subparagraph (d) (9) (A) of this
14 Section. An agency providing civil legal aid, as
15 defined in Section 15 of the Public Interest Attorney
16 Assistance Act, assisting individuals seeking to file
17 a motion to vacate and expunge under this subsection
18 may file motions to vacate and expunge with the Chief
19 Judge of a judicial circuit or any judge of the circuit
20 designated by the Chief Judge, and the motion may
21 include more than one individual.

22 (2) Any State's Attorney may file a motion to vacate
23 and expunge a conviction for a Class 4 felony violation of
24 prostitution. Motions to vacate and expunge under this
25 subsection (j) may be filed with the circuit court, Chief
26 Judge of a judicial circuit, or any judge of the circuit

1 court designated by the Chief Judge, and may include more
2 than one individual. When considering the motion to vacate
3 and expunge, a court shall consider the following reasons:

4 (A) the reasons to retain the records provided by
5 law enforcement;

6 (B) the petitioner's age;

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

8 (D) the time since the conviction; and

9 (E) the specific adverse consequences if denied.

10 If the State's Attorney files a motion to vacate and
11 expunge records for felony prostitution convictions
12 pursuant to this Section, the State's Attorney shall
13 notify the Prisoner Review Board within 30 days of the
14 filing. If a motion to vacate and expunge is granted, the
15 records shall be expunged in accordance with subparagraph
16 (d) (9) (A) of this Section.

17 (3) 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 (4) The Illinois State Police shall allow a person to
22 use the access and review process, established in the
23 Illinois State Police, for verifying that his or her
24 records relating to felony prostitution eligible under
25 this Section have been expunged.

26 (5) No conviction vacated pursuant to this Section

1 shall serve as the basis for damages for time unjustly
2 served as provided in the Court of Claims Act.

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

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

11 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
12 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
13 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;
14 102-558, 8-20-21; 102-639, eff. 8-27-21; 102-813, eff.
15 5-13-22; 102-933, eff. 1-1-23; revised 12-8-22.)