

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:

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

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

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

11 (D) (blank).

12 (b) Expungement.

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

26 (1.5) When a petitioner seeks to have a record of

1 arrest expunged under this Section, and the offender has
2 been convicted of a criminal offense, the State's Attorney
3 may object to the expungement on the grounds that the
4 records contain specific relevant information aside from
5 the mere fact of the arrest.

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

7 (A) When the arrest or charge not initiated by
8 arrest sought to be expunged resulted in an acquittal,
9 dismissal, the petitioner's release without charging,
10 or the reversal or vacation of a conviction, there is
11 no waiting period to petition for the expungement of
12 such records.

13 (A-5) In anticipation of the successful completion
14 of a problem-solving court, pre-plea diversion, or
15 post-plea diversion program, a petition for
16 expungement may be filed 61 days before the
17 anticipated dismissal of the case or any time
18 thereafter. Upon successful completion of the program
19 and dismissal of the case, the court shall review the
20 petition of the person graduating from the program and
21 shall grant expungement if the petitioner meets all
22 requirements as specified in any applicable statute.

23 (B) When the arrest or charge not initiated by
24 arrest sought to be expunged resulted in an order of
25 supervision, successfully completed by the petitioner,
26 the following time frames will apply:

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

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

22 (ii) Those arrests or charges that resulted in
23 orders of supervision for any other offenses shall
24 not be eligible for expungement until 2 years have
25 passed following the satisfactory termination of
26 the supervision.

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

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

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

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

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

1 with the proceedings of the trial court concerning the
2 offense available for public inspection.

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

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

26 (8) If the petitioner has been granted a certificate

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

7 (c) Sealing.

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

14 (2) Eligible Records. The following records may be
15 sealed:

16 (A) All arrests resulting in release without
17 charging;

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

22 (C) Arrests or charges not initiated by arrest
23 resulting in orders of supervision, including orders
24 of supervision for municipal ordinance violations,
25 successfully completed by the petitioner, unless
26 excluded by subsection (a) (3);

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

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

12 (F) Arrests or charges not initiated by arrest
13 resulting in felony convictions unless otherwise
14 excluded by subsection (a) paragraph (3) of this
15 Section.

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

19 (A) Records identified as eligible under
20 subsections (c) (2) (A) and (c) (2) (B) may be sealed at
21 any time.

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

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

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

15 (E) Records identified as eligible under
16 subsection (c)(2)(C), (c)(2)(D), (c)(2)(E), or
17 (c)(2)(F) may be sealed upon termination of the
18 petitioner's last sentence if the petitioner earned a
19 high school diploma, associate's degree, career
20 certificate, vocational technical certification, or
21 bachelor's degree, or passed the high school level
22 Test of General Educational Development, during the
23 period of his or her sentence or mandatory supervised
24 release. This subparagraph shall apply only to a
25 petitioner who has not completed the same educational
26 goal prior to the period of his or her sentence or

1 mandatory supervised release. If a petition for
2 sealing eligible records filed under this subparagraph
3 is denied by the court, the time periods under
4 subparagraph (B) or (C) shall apply to any subsequent
5 petition for sealing filed by the petitioner.

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

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

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

22 (1) Filing the petition. Upon becoming eligible to
23 petition for the expungement or sealing of records under
24 this Section, the petitioner shall file a petition
25 requesting the expungement or sealing of records with the
26 clerk of the court where the arrests occurred or the

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

8 (1.5) County fee waiver pilot program. From August 9,
9 2019 (the effective date of Public Act 101-306) through
10 December 31, 2020, in a county of 3,000,000 or more
11 inhabitants, no fee shall be required to be paid by a
12 petitioner if the records sought to be expunged or sealed
13 were arrests resulting in release without charging or
14 arrests or charges not initiated by arrest resulting in
15 acquittal, dismissal, or conviction when the conviction
16 was reversed or vacated, unless excluded by subsection
17 (a)(3)(B). The provisions of this paragraph (1.5), other
18 than this sentence, are inoperative on and after January
19 1, 2022.

20 (2) Contents of petition. The petition shall be
21 verified and shall contain the petitioner's name, date of
22 birth, current address and, for each arrest or charge not
23 initiated by arrest sought to be sealed or expunged, the
24 case number, the date of arrest (if any), the identity of
25 the arresting authority, and such other information as the
26 court may require. During the pendency of the proceeding,

1 the petitioner shall promptly notify the circuit court
2 clerk of any change of his or her address. If the
3 petitioner has received a certificate of eligibility for
4 sealing from the Prisoner Review Board under paragraph
5 (10) of subsection (a) of Section 3-3-2 of the Unified
6 Code of Corrections, the certificate shall be attached to
7 the petition.

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

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

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

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

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

23 (4) Service of petition. The circuit court clerk shall
24 promptly serve a copy of the petition and documentation to
25 support the petition under subsection (e-5) or (e-6) on
26 the State's Attorney or prosecutor charged with the duty

1 of prosecuting the offense, the Illinois State Police, the
2 arresting agency and the chief legal officer of the unit
3 of local government effecting the arrest.

4 (5) Objections.

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

13 (B) Objections to a petition to expunge or seal
14 must be filed within 60 days of the date of service of
15 the petition.

16 (6) Entry of order.

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

24 (B) Unless the State's Attorney or prosecutor, the
25 Illinois State Police, the arresting agency, or the
26 chief legal officer files an objection to the petition

1 to expunge or seal within 60 days from the date of
2 service of the petition, the court shall enter an
3 order granting or denying the petition.

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

21 (D) Notwithstanding any other provision of law,
22 the court shall not deny a petition to expunge or seal
23 under this Section because the petitioner has
24 submitted a drug test taken within 30 days before the
25 filing of the petition to expunge or seal that
26 indicates a positive test for the presence of cannabis

1 within the petitioner's body. In this subparagraph
2 (D), "cannabis" has the meaning ascribed to it in
3 Section 3 of the Cannabis Control Act.

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

16 (A) the strength of the evidence supporting the
17 defendant's conviction;

18 (B) the reasons for retention of the conviction
19 records by the State;

20 (C) the petitioner's age, criminal record history,
21 and employment history;

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

25 (E) the specific adverse consequences the
26 petitioner may be subject to if the petition is

1 denied.

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

11 (9) Implementation of order.

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

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

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

1 required to be kept by the circuit court clerk
2 under Section 16 of the Clerks of Courts Act, but
3 the order shall not affect any index issued by the
4 circuit court clerk before the entry of the order;
5 and

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

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

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

21 (ii) the records of the circuit court clerk
22 shall be impounded until further order of the
23 court upon good cause shown and the name of the
24 petitioner obliterated on the official index
25 required to be kept by the circuit court clerk
26 under Section 16 of the Clerks of Courts Act, but

1 the order shall not affect any index issued by the
2 circuit court clerk before the entry of the order;

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

9 (iv) records impounded by the Illinois State
10 Police may be disseminated by the Illinois State
11 Police only as required by law or to the arresting
12 authority, the State's Attorney, and the court
13 upon a later arrest for the same or a similar
14 offense or for the purpose of sentencing for any
15 subsequent felony, and to the Department of
16 Corrections upon conviction for any 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, or
20 the agency receiving such inquiry shall reply as
21 it does in response to inquiries when no records
22 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 within 60 days of the date
16 of service of the order as ordered by the court,
17 unless a motion to vacate, modify, or reconsider
18 the order is filed under paragraph (12) of
19 subsection (d) of this Section;

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

1 Corrections upon conviction for any offense; and

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

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

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

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

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

22 (F) Notwithstanding any other provision of this
23 Section, a circuit court clerk may access a sealed
24 record for the limited purpose of collecting payment
25 for any legal financial obligations that were
26 established, imposed, or originated in the criminal

1 proceedings for which those records have been sealed.

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

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

26 (12) Motion to Vacate, Modify, or Reconsider. Under

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

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

21 (14) Compliance with Order Granting Petition to Seal
22 Records. Unless a court has entered a stay of an order
23 granting a petition to seal, all parties entitled to
24 notice of the petition must fully comply with the terms of
25 the order within 60 days of service of the order even if a
26 party is seeking relief from the order through a motion

1 filed under paragraph (12) of this subsection (d) or is
2 appealing the order.

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

13 (16) The changes to this subsection (d) made by Public
14 Act 98-163 apply to all petitions pending on August 5,
15 2013 (the effective date of Public Act 98-163) and to all
16 orders ruling on a petition to expunge or seal on or after
17 August 5, 2013 (the effective date of Public Act 98-163).

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

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

20 (e-5) Whenever a person who has been convicted of an
21 offense is granted a certificate of eligibility for sealing by
22 the Prisoner Review Board which specifically authorizes
23 sealing, he or she may, upon verified petition to the Chief
24 Judge of the circuit where the person had been convicted, any
25 judge of the circuit designated by the Chief Judge, or in
26 counties of less than 3,000,000 inhabitants, the presiding

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

25 (e-6) Whenever a person who has been convicted of an
26 offense is granted a certificate of eligibility for

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

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

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

16 (g) Immediate Sealing.

17 (1) Applicability. Notwithstanding any other provision
18 of this Act to the contrary, and cumulative with any
19 rights to expungement or sealing of criminal records, this
20 subsection authorizes the immediate sealing of criminal
21 records of adults and of minors prosecuted as adults.

22 (2) Eligible Records. Arrests or charges not initiated
23 by arrest resulting in acquittal or dismissal with
24 prejudice, except as excluded by subsection (a)(3)(B),
25 that occur on or after January 1, 2018 (the effective date
26 of Public Act 100-282), may be sealed immediately if the

1 petition is filed with the circuit court clerk on the same
2 day and during the same hearing in which the case is
3 disposed.

4 (3) When Records are Eligible to be Immediately
5 Sealed. Eligible records under paragraph (2) of this
6 subsection (g) may be sealed immediately after entry of
7 the final disposition of a case, notwithstanding the
8 disposition of other charges in the same case.

9 (4) Notice of Eligibility for Immediate Sealing. Upon
10 entry of a disposition for an eligible record under this
11 subsection (g), the defendant shall be informed by the
12 court of his or her right to have eligible records
13 immediately sealed and the procedure for the immediate
14 sealing of these records.

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

17 (A) Filing the Petition. Upon entry of the final
18 disposition of the case, the defendant's attorney may
19 immediately petition the court, on behalf of the
20 defendant, for immediate sealing of eligible records
21 under paragraph (2) of this subsection (g) that are
22 entered on or after January 1, 2018 (the effective
23 date of Public Act 100-282). The immediate sealing
24 petition may be filed with the circuit court clerk
25 during the hearing in which the final disposition of
26 the case is entered. If the defendant's attorney does

1 not file the petition for immediate sealing during the
2 hearing, the defendant may file a petition for sealing
3 at any time as authorized under subsection (c) (3) (A).

4 (B) Contents of Petition. The immediate sealing
5 petition shall be verified and shall contain the
6 petitioner's name, date of birth, current address, and
7 for each eligible record, the case number, the date of
8 arrest if applicable, the identity of the arresting
9 authority if applicable, and other information as the
10 court may require.

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

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

18 (E) Entry of Order. The presiding trial judge
19 shall enter an order granting or denying the petition
20 for immediate sealing during the hearing in which it
21 is filed. Petitions for immediate sealing shall be
22 ruled on in the same hearing in which the final
23 disposition of the case is entered.

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

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

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

7 (I) Fees. The fee imposed by the circuit court
8 clerk and the Illinois State Police shall comply with
9 paragraph (1) of subsection (d) of this Section.

10 (J) Final Order. No court order issued under this
11 subsection (g) shall become final for purposes of
12 appeal until 30 days after service of the order on the
13 petitioner and all parties entitled to service of the
14 order in conformance with subsection (d) (8).

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

25 (L) Effect of Order. An order granting an
26 immediate sealing petition shall not be considered

1 void because it fails to comply with the provisions of
2 this Section or because of an error asserted in a
3 motion to vacate, modify, or reconsider. The circuit
4 court retains jurisdiction to determine whether the
5 order is voidable, and to vacate, modify, or
6 reconsider its terms based on a motion filed under
7 subparagraph (L) of this subsection (g).

8 (M) Compliance with Order Granting Petition to
9 Seal Records. Unless a court has entered a stay of an
10 order granting a petition to immediately seal, all
11 parties entitled to service of the order must fully
12 comply with the terms of the order within 60 days of
13 service of the order.

14 (h) Sealing or vacation and expungement of trafficking
15 victims' crimes.

16 (1) A trafficking victim, as defined by paragraph (10)
17 of subsection (a) of Section 10-9 of the Criminal Code of
18 2012, may petition for vacation and expungement or
19 immediate sealing of his or her criminal record upon the
20 completion of his or her last sentence if his or her
21 participation in the underlying offense was a result of
22 human trafficking under Section 10-9 of the Criminal Code
23 of 2012 or a severe form of trafficking under the federal
24 Trafficking Victims Protection Act.

25 (1.5) A petition under paragraph (1) shall be
26 prepared, signed, and filed in accordance with Supreme

1 Court Rule 9. The court may allow the petitioner to attend
2 any required hearing remotely in accordance with local
3 rules. The court may allow a petition to be filed under
4 seal if the public filing of the petition would constitute
5 a risk of harm to the petitioner.

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

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

1 and (B) that his or her participation in the offense was a
2 result of human trafficking under Section 10-9 of the
3 Criminal Code of 2012 or a severe form of trafficking
4 under the federal Trafficking Victims Protection Act.

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

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

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

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

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

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

1 (A) shall be automatically expunged.

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

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

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

11 (iii) Records created prior to January 1, 2000
12 shall be automatically expunged prior to January
13 1, 2025.

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

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

1 (2) Pardons Authorizing Expungement of Minor Cannabis
2 Offenses.

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

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

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

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

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

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

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

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

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

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

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

26 (D) Nothing in this Section is intended to

1 diminish or abrogate any rights or remedies otherwise
2 available to the individual.

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

1 aid, as defined by Section 15 of the Public Interest
2 Attorney Assistance Act, assisting individuals seeking to
3 file a motion to vacate and expunge under this subsection
4 may file motions to vacate and expunge with the Chief
5 Judge of a judicial circuit or any judge of the circuit
6 designated by the Chief Judge, and the motion may include
7 more than one individual. Motions filed by an agency
8 providing civil legal aid concerning more than one
9 individual may be prepared, presented, and signed
10 electronically.

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

1 and expunge records pursuant to this Section, the State's
2 Attorney shall notify the Prisoner Review Board within 30
3 days. Upon entry of the order of expungement, the circuit
4 court clerk shall promptly provide a copy of the order and
5 a certificate of disposition to the individual whose
6 records will be expunged to the individual's last known
7 address or by electronic means (if available) or otherwise
8 make available to the individual upon request. If a motion
9 to vacate and expunge is granted, the records shall be
10 expunged in accordance with subparagraphs (d)(8) and
11 (d)(9)(A) of this Section.

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

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

1 offense that has been made eligible for expungement; (B)
2 the case is pending at the time; and (C) the person has not
3 been sentenced of the minor cannabis violation eligible
4 for expungement under this subsection, the court shall
5 consider the following: the reasons to retain the records
6 provided by law enforcement, the petitioner's age, the
7 petitioner's age at the time of offense, the time since
8 the conviction, and the specific adverse consequences if
9 denied. If a motion to dismiss and expunge is granted, the
10 records shall be expunged in accordance with subparagraph
11 (d) (9) (A) of this Section.

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

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

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

25 (10) Effect of Expungement. A person's right to
26 expunge an expungeable offense shall not be limited under

1 this Section. The effect of an order of expungement shall
2 be to restore the person to the status he or she occupied
3 before the arrest, charge, or conviction.

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

7 (j) Felony Prostitution Convictions.

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

16 (A) the reasons to retain the records provided by
17 law enforcement;

18 (B) the petitioner's age;

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

20 and

21 (D) the time since the conviction, and the
22 specific adverse consequences if denied. An individual
23 may file the petition after the completion of any
24 sentence or condition imposed by the conviction.
25 Within 60 days of the filing of the motion, a State's
26 Attorney may file an objection to the petition along

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

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

20 (A) the reasons to retain the records provided by
21 law enforcement;

22 (B) the petitioner's age;

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

24 (D) the time since the conviction; and

25 (E) the specific adverse consequences if denied.

26 If the State's Attorney files a motion to vacate and

1 expunge records for felony prostitution convictions
2 pursuant to this Section, the State's Attorney shall
3 notify the Prisoner Review Board within 30 days of the
4 filing. If a motion to vacate and expunge is granted, the
5 records shall be expunged in accordance with subparagraph
6 (d) (9) (A) of this Section.

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

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

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

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

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

1 (Source: P.A. 102-145, eff. 7-23-21; 102-558, 8-20-21;
2 102-639, eff. 8-27-21; 102-813, eff. 5-13-22; 102-933, eff.
3 1-1-23; 103-35, eff. 1-1-24; 103-154, eff. 6-30-23.)

4 Section 10. The Drug Court Treatment Act is amended by
5 changing Section 35 as follows:

6 (730 ILCS 166/35)

7 Sec. 35. Violation; termination; dismissal from program.

8 (a) If the court finds from the evidence presented,
9 including, but not limited to, the reports or proffers of
10 proof from the drug court professionals, that: (1) the
11 participant is not complying with the requirements of the
12 treatment program; or (2) the participant has otherwise
13 violated the terms and conditions of the program, the court
14 may impose reasonable sanctions under the prior written
15 agreement of the participant, including, but not limited to,
16 imprisonment or dismissal of the participant from the program,
17 and the court may reinstate criminal proceedings against the
18 participant or proceed under Section 5-6-4 of the Unified Code
19 of Corrections for a violation of probation, conditional
20 discharge, or supervision hearing.

21 (a-5) Based on the evidence presented, the court shall
22 determine whether the participant has violated the conditions
23 of the program and whether the participant should be dismissed
24 from the program or whether, pursuant to the court's policies

1 and procedures, some other alternative may be appropriate in
2 the interests of the participant and the public.

3 (a-10) A participant who is assigned to a substance use
4 disorder treatment program under this Act for an opioid use
5 disorder is not in violation of the terms or conditions of the
6 program on the basis of participation in medication-assisted
7 treatment under the care of a physician licensed in this State
8 to practice medicine in all of its branches.

9 (a-15) A participant may voluntarily withdraw from the
10 drug court program in accordance with the drug court program's
11 policies and procedures. Prior to allowing the participant to
12 withdraw, the judge shall:

13 (1) ensure that the participant has the right to
14 consult with counsel prior to withdrawal;

15 (2) determine in open court that the withdrawal is
16 made voluntarily and knowingly; and

17 (3) admonish the participant in open court as to the
18 consequences, actual or potential, which can result from
19 withdrawal.

20 Upon withdrawal, the criminal proceedings may be
21 reinstated against the participant or proceedings may be
22 initiated under Section 5-6-4 of the Unified Code of
23 Corrections for a violation of probation, conditional
24 discharge, or supervision hearing.

25 (a-20) No participant may be dismissed from the program
26 unless, prior to dismissal, the participant is informed in

1 writing:

2 (1) of the reason or reasons for the dismissal;

3 (2) the evidentiary basis supporting the reason or
4 reasons for the dismissal; and

5 (3) that the participant has a right to a hearing at
6 which the participant may present evidence supporting the
7 participant's continuation in the program.

8 (a-25) A participant who has not violated the conditions
9 of the program in such a way as to warrant unsuccessful
10 dismissal, but who is unable to complete program requirements
11 to qualify for a successful discharge, may be terminated from
12 the program as a neutral discharge.

13 (b) Upon successful completion of the terms and conditions
14 of the program, the court may dismiss the original charges
15 against the participant or successfully terminate the
16 participant's sentence or otherwise discharge the participant
17 from any further proceedings against the participant in the
18 original prosecution.

19 (c) Upon successful completion of the terms and conditions
20 of the program, any State's Attorney in the county of
21 conviction, participant, or defense attorney may move to
22 vacate any convictions that are eligible for sealing under the
23 Criminal Identification Act. A participant may ~~immediately~~
24 file a petition to expunge ~~vacated convictions~~ and the
25 associated ~~underlying~~ records pursuant to ~~per~~ the Criminal
26 Identification Act, including filing a petition in advance of

1 anticipated vacatur and dismissal. If the State's Attorney
2 moves to vacate a conviction, the State's Attorney may not
3 object to expungement of that conviction or the underlying
4 record.

5 (d) The drug court program may maintain or collaborate
6 with a network of legal aid organizations that specialize in
7 conviction relief to support participants navigating the
8 expungement and sealing process.

9 (Source: P.A. 102-1041, eff. 6-2-22.)

10 Section 15. The Veterans and Servicemembers Court
11 Treatment Act is amended by changing Section 35 as follows:

12 (730 ILCS 167/35)

13 Sec. 35. Violation; termination; dismissal from the
14 program.

15 (a) If the court finds from the evidence presented,
16 including, but not limited to, the reports or proffers of
17 proof from the veterans and servicemembers court
18 professionals, that: (1) the participant is not complying with
19 the requirements of the treatment program; or (2) the
20 participant has otherwise violated the terms and conditions of
21 the program, the court may impose reasonable sanctions under
22 the prior written agreement of the participant, including, but
23 not limited to, imprisonment or dismissal of the participant
24 from the program and the court may reinstate criminal

1 proceedings against the participant or proceed under Section
2 5-6-4 of the Unified Code of Corrections for a violation of
3 probation, conditional discharge, or supervision hearing.

4 (a-5) Based on the evidence presented, the court shall
5 determine whether the participant has violated the conditions
6 of the program and whether the participant should be dismissed
7 from the program or whether, pursuant to the court's policies
8 and procedures, some other alternative may be appropriate in
9 the interests of the participant and the public.

10 (a-10) A participant who is assigned to a substance use
11 disorder treatment program under this Act for an opioid use
12 disorder is not in violation of the terms or conditions of the
13 program on the basis of participation in medication-assisted
14 treatment under the care of a physician licensed in this State
15 to practice medicine in all of its branches.

16 (a-15) A participant may voluntarily withdraw from the
17 veterans and servicemembers court program in accordance with
18 the program's policies and procedures. Prior to allowing the
19 participant to withdraw, the judge shall:

20 (1) ensure that the participant has the right to
21 consult with counsel prior to withdrawal;

22 (2) determine in open court that the withdrawal is
23 made voluntarily and knowingly; and

24 (3) admonish the participant in open court as to
25 the consequences, actual or potential, which can
26 result from withdrawal.

1 Upon withdrawal, the criminal proceedings may be
2 reinstated against the participant or proceedings may be
3 initiated under Section 5-6-4 of the Unified Code of
4 Corrections for a violation of probation, conditional
5 discharge, or supervision hearing.

6 (a-20) A participant who has not violated the conditions
7 of the program in such a way as to warrant unsuccessful
8 dismissal, but who is unable to complete program requirements
9 to qualify for a successful discharge, may be terminated from
10 the program as a neutral discharge.

11 (b) Upon successful completion of the terms and conditions
12 of the program, the court may dismiss the original charges
13 against the participant or successfully terminate the
14 participant's sentence or otherwise discharge the participant
15 from any further proceedings against the participant in the
16 original prosecution.

17 (c) Upon successful completion of the terms and conditions
18 of the program, any State's Attorney in the county of
19 conviction, a participant, or defense attorney may move to
20 vacate any convictions that are eligible for sealing under the
21 Criminal Identification Act. A participant may ~~immediately~~
22 file a petition to expunge ~~vacated convictions~~ and the
23 associated ~~underlying~~ records pursuant to ~~per~~ the Criminal
24 Identification Act, including filing a petition in advance of
25 anticipated vacatur and dismissal. If the State's Attorney
26 moves to vacate a conviction, the State's Attorney may not

1 object to expungement of that conviction or the underlying
2 record.

3 (d) Veterans and servicemembers court programs may
4 maintain or collaborate with a network of legal aid
5 organizations that specialize in conviction relief to support
6 participants navigating the expungement and sealing process.

7 (Source: P.A. 102-1041, eff. 6-2-22.)

8 Section 20. The Mental Health Court Treatment Act is
9 amended by changing Section 35 as follows:

10 (730 ILCS 168/35)

11 Sec. 35. Violation; termination; dismissal from program.

12 (a) If the court finds from the evidence presented,
13 including, but not limited to, the reports or proffers of
14 proof from the mental health court professionals, that: (1)
15 the participant is not complying with the requirements of the
16 treatment program; or (2) the participant has otherwise
17 violated the terms and conditions of the program, the court
18 may impose reasonable sanctions under the prior written
19 agreement of the participant, including, but not limited to,
20 imprisonment or dismissal of the defendant from the program
21 and the court may reinstate criminal proceedings against the
22 participant or proceed under Section 5-6-4 of the Unified Code
23 of Corrections for a violation of probation, conditional
24 discharge, or supervision hearing.

1 (a-5) Based on the evidence presented, the court shall
2 determine whether the participant has violated the conditions
3 of the program and whether the participant should be dismissed
4 from the program or whether, pursuant to the court's policies
5 and procedures, some other alternative may be appropriate in
6 the interests of the participant and the public.

7 (a-10) A participant may voluntarily withdraw from the
8 mental health court program in accordance with the mental
9 health court program's policies and procedures. Prior to
10 allowing the participant to withdraw, the judge shall:

11 (1) ensure that the participant has the right to
12 consult with counsel prior to withdrawal;

13 (2) determine in open court that the withdrawal is
14 made voluntarily and knowingly; and

15 (3) admonish the participant in open court, as to the
16 consequences, actual or potential, which can result from
17 withdrawal.

18 Upon withdrawal, the criminal proceedings may be
19 reinstated against the participant or proceedings may be
20 initiated under Section 5-6-4 of the Unified Code of
21 Corrections for a violation of probation, conditional
22 discharge, or supervision hearing.

23 (a-15) No participant may be dismissed from the program
24 unless, prior to such dismissal, the participant is informed
25 in writing: (i) of the reason or reasons for the dismissal;
26 (ii) the evidentiary basis supporting the reason or reasons

1 for the dismissal; (iii) that the participant has a right to a
2 hearing at which he or she may present evidence supporting his
3 or her continuation in the program.

4 (a-20) A participant who has not violated the conditions
5 of the program in such a way as to warrant unsuccessful
6 dismissal, but who is unable to complete program requirements
7 to qualify for a successful discharge, may be terminated from
8 the program as a neutral discharge.

9 (b) Upon successful completion of the terms and conditions
10 of the program, the court may dismiss the original charges
11 against the participant or successfully terminate the
12 participant's sentence or otherwise discharge the participant
13 from the program or from any further proceedings against the
14 participant in the original prosecution.

15 (c) Upon successful completion of the terms and conditions
16 of the program, any State's Attorney in the county of
17 conviction, a participant, or defense attorney may move to
18 vacate any convictions that are eligible for sealing under the
19 Criminal Identification Act. A participant may ~~immediately~~
20 file a petition to expunge ~~vacated convictions and~~ the
21 associated ~~underlying~~ records pursuant to ~~per~~ the Criminal
22 Identification Act, including filing a petition in advance of
23 anticipated vacatur and dismissal. If the State's Attorney
24 moves to vacate a conviction, the State's Attorney may not
25 object to expungement of that conviction or the underlying
26 record.

1 (d) The mental health court program may maintain or
2 collaborate with a network of legal aid organizations that
3 specialize in conviction relief to support participants
4 navigating the expungement and sealing process.

5 (Source: P.A. 102-1041, eff. 6-2-22.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.