



Sen. Robert Peters

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1 AMENDMENT TO SENATE BILL 2626

2 AMENDMENT NO. _____. Amend Senate Bill 2626, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 2630/5.2)

8 Sec. 5.2. Expungement, sealing, and immediate sealing.

9 (a) General Provisions.

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

13 (A) The following terms shall have the meanings
14 ascribed to them in the following Sections of the
15 Unified Code of Corrections:

16 Business Offense, Section 5-1-2.

1 Charge, Section 5-1-3.
2 Court, Section 5-1-6.
3 Defendant, Section 5-1-7.
4 Felony, Section 5-1-9.
5 Imprisonment, Section 5-1-10.
6 Judgment, Section 5-1-12.
7 Misdemeanor, Section 5-1-14.
8 Offense, Section 5-1-15.
9 Parole, Section 5-1-16.
10 Petty Offense, Section 5-1-17.
11 Probation, Section 5-1-18.
12 Sentence, Section 5-1-19.
13 Supervision, Section 5-1-21.
14 Victim, Section 5-1-22.

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

20 (C) "Conviction" means a judgment of conviction or
21 sentence entered upon a plea of guilty or upon a
22 verdict or finding of guilty of an offense, rendered
23 by a legally constituted jury or by a court of
24 competent jurisdiction authorized to try the case
25 without a jury. An order of supervision successfully
26 completed by the petitioner is not a conviction. An

1 order of qualified probation (as defined in subsection
2 (a) (1) (J)) successfully completed by the petitioner is
3 not a conviction. An order of supervision or an order
4 of qualified probation that is terminated
5 unsatisfactorily is a conviction, unless the
6 unsatisfactory termination is reversed, vacated, or
7 modified and the judgment of conviction, if any, is
8 reversed or vacated.

9 (D) "Criminal offense" means a petty offense,
10 business offense, misdemeanor, felony, or municipal
11 ordinance violation (as defined in subsection
12 (a) (1) (H)). As used in this Section, a minor traffic
13 offense (as defined in subsection (a) (1) (G)) shall not
14 be considered a criminal offense.

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

24 (F) As used in this Section, "last sentence" means
25 the sentence, order of supervision, or order of
26 qualified probation (as defined by subsection

1 (a) (1) (J)), for a criminal offense (as defined by
2 subsection (a) (1) (D)) that terminates last in time in
3 any jurisdiction, regardless of whether the petitioner
4 has included the criminal offense for which the
5 sentence or order of supervision or qualified
6 probation was imposed in his or her petition. If
7 multiple sentences, orders of supervision, or orders
8 of qualified probation terminate on the same day and
9 are last in time, they shall be collectively
10 considered the "last sentence" regardless of whether
11 they were ordered to run concurrently.

12 (G) "Minor traffic offense" means a petty offense,
13 business offense, or Class C misdemeanor under the
14 Illinois Vehicle Code or a similar provision of a
15 municipal or local ordinance.

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

25 (H) "Municipal ordinance violation" means an
26 offense defined by a municipal or local ordinance that

1 is criminal in nature and with which the petitioner
2 was charged or for which the petitioner was arrested
3 and released without charging.

4 (I) "Petitioner" means an adult or a minor
5 prosecuted as an adult who has applied for relief
6 under this Section.

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

25 (K) "Seal" means to physically and electronically
26 maintain the records, unless the records would

1 otherwise be destroyed due to age, but to make the
2 records unavailable without a court order, subject to
3 the exceptions in Sections 12 and 13 of this Act. The
4 petitioner's name shall also be obliterated from the
5 official index required to be kept by the circuit
6 court clerk under Section 16 of the Clerks of Courts
7 Act, but any index issued by the circuit court clerk
8 before the entry of the order to seal shall not be
9 affected.

10 (L) "Sexual offense committed against a minor"
11 includes, but is not limited to, the offenses of
12 indecent solicitation of a child or criminal sexual
13 abuse when the victim of such offense is under 18 years
14 of age.

15 (M) "Terminate" as it relates to a sentence or
16 order of supervision or qualified probation includes
17 either satisfactory or unsatisfactory termination of
18 the sentence, unless otherwise specified in this
19 Section. A sentence is terminated notwithstanding any
20 outstanding financial legal obligation.

21 (2) Minor Traffic Offenses. Orders of supervision or
22 convictions for minor traffic offenses shall not affect a
23 petitioner's eligibility to expunge or seal records
24 pursuant to this Section.

25 (2.5) Commencing 180 days after July 29, 2016 (the
26 effective date of Public Act 99-697), the law enforcement

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

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

1 (A) the sealing or expungement of the records of
2 arrests or charges not initiated by arrest that result
3 in an order of supervision for or conviction of: (i)
4 any sexual offense committed against a minor; (ii)
5 Section 11-501 of the Illinois Vehicle Code or a
6 similar provision of a local ordinance; or (iii)
7 Section 11-503 of the Illinois Vehicle Code or a
8 similar provision of a local ordinance, unless the
9 arrest or charge is for a misdemeanor violation of
10 subsection (a) of Section 11-503 or a similar
11 provision of a local ordinance, that occurred prior to
12 the offender reaching the age of 25 years and the
13 offender has no other conviction for violating Section
14 11-501 or 11-503 of the Illinois Vehicle Code or a
15 similar provision of a local ordinance.

16 (B) the sealing or expungement of records of minor
17 traffic offenses (as defined in subsection (a)(1)(G)),
18 unless the petitioner was arrested and released
19 without charging.

20 (C) the sealing of the records of arrests or
21 charges not initiated by arrest which result in an
22 order of supervision or a conviction for the following
23 offenses:

24 (i) offenses included in Article 11 of the
25 Criminal Code of 1961 or the Criminal Code of 2012
26 or a similar provision of a local ordinance,

1 except Section 11-14 and a misdemeanor violation
2 of Section 11-30 of the Criminal Code of 1961 or
3 the Criminal Code of 2012, or a similar provision
4 of a local ordinance;

5 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
6 26-5, or 48-1 of the Criminal Code of 1961 or the
7 Criminal Code of 2012, or a similar provision of a
8 local ordinance;

9 (iii) Section 12-3.1 or 12-3.2 of the Criminal
10 Code of 1961 or the Criminal Code of 2012, or
11 Section 125 of the Stalking No Contact Order Act,
12 or Section 219 of the Civil No Contact Order Act,
13 or a similar provision of a local ordinance;

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

16 (v) any offense or attempted offense that
17 would subject a person to registration under the
18 Sex Offender Registration Act.

19 (D) (blank).

20 (b) Expungement.

21 (1) A petitioner may petition the circuit court to
22 expunge the records of his or her arrests and charges not
23 initiated by arrest when each arrest or charge not
24 initiated by arrest sought to be expunged resulted in: (i)
25 acquittal, dismissal, or the petitioner's release without
26 charging, unless excluded by subsection (a) (3) (B); (ii) a

1 conviction which was vacated or reversed, unless excluded
2 by subsection (a)(3)(B); (iii) an order of supervision and
3 such supervision was successfully completed by the
4 petitioner, unless excluded by subsection (a)(3)(A) or
5 (a)(3)(B); or (iv) an order of qualified probation (as
6 defined in subsection (a)(1)(J)) and such probation was
7 successfully completed by the petitioner.

8 (1.5) When a petitioner seeks to have a record of
9 arrest expunged under this Section, and the offender has
10 been convicted of a criminal offense, the State's Attorney
11 may object to the expungement on the grounds that the
12 records contain specific relevant information aside from
13 the mere fact of the arrest.

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

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

21 (A-5) In anticipation of the successful completion
22 of a problem-solving court, pre-plea diversion, or
23 post-plea diversion program, a petition for
24 expungement may be filed 61 days before the
25 anticipated dismissal of the case or any time
26 thereafter. Upon successful completion of the program

1 and dismissal of the case, the court shall review the
2 petition of the person graduating from the program and
3 shall grant expungement if the petitioner meets all
4 requirements as specified in any applicable statute.

5 (B) When the arrest or charge not initiated by
6 arrest sought to be expunged resulted in an order of
7 supervision, successfully completed by the petitioner,
8 the following time frames will apply:

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

19 (i-5) Those arrests or charges that resulted
20 in orders of supervision for a misdemeanor
21 violation of subsection (a) of Section 11-503 of
22 the Illinois Vehicle Code or a similar provision
23 of a local ordinance, that occurred prior to the
24 offender reaching the age of 25 years and the
25 offender has no other conviction for violating
26 Section 11-501 or 11-503 of the Illinois Vehicle

1 Code or a similar provision of a local ordinance
2 shall not be eligible for expungement until the
3 petitioner has reached the age of 25 years.

4 (ii) Those arrests or charges that resulted in
5 orders of supervision for any other offenses shall
6 not be eligible for expungement until 2 years have
7 passed following the satisfactory termination of
8 the supervision.

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

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

19 (4) Whenever a person has been arrested for or
20 convicted of any offense, in the name of a person whose
21 identity he or she has stolen or otherwise come into
22 possession of, the aggrieved person from whom the identity
23 was stolen or otherwise obtained without authorization,
24 upon learning of the person having been arrested using his
25 or her identity, may, upon verified petition to the chief
26 judge of the circuit wherein the arrest was made, have a

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

21 (5) Whenever a person has been convicted of criminal
22 sexual assault, aggravated criminal sexual assault,
23 predatory criminal sexual assault of a child, criminal
24 sexual abuse, or aggravated criminal sexual abuse, the
25 victim of that offense may request that the State's
26 Attorney of the county in which the conviction occurred

1 file a verified petition with the presiding trial judge at
2 the petitioner's trial to have a court order entered to
3 seal the records of the circuit court clerk in connection
4 with the proceedings of the trial court concerning that
5 offense. However, the records of the arresting authority
6 and the Illinois State Police concerning the offense shall
7 not be sealed. The court, upon good cause shown, shall
8 make the records of the circuit court clerk in connection
9 with the proceedings of the trial court concerning the
10 offense available for public inspection.

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

20 (7) Nothing in this Section shall prevent the Illinois
21 State Police from maintaining all records of any person
22 who is admitted to probation upon terms and conditions and
23 who fulfills those terms and conditions pursuant to
24 Section 10 of the Cannabis Control Act, Section 410 of the
25 Illinois Controlled Substances Act, Section 70 of the
26 Methamphetamine Control and Community Protection Act,

1 Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
2 Corrections, Section 12-4.3 or subdivision (b)(1) of
3 Section 12-3.05 of the Criminal Code of 1961 or the
4 Criminal Code of 2012, Section 10-102 of the Illinois
5 Alcoholism and Other Drug Dependency Act, Section 40-10 of
6 the Substance Use Disorder Act, or Section 10 of the
7 Steroid Control Act.

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

15 (c) Sealing.

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

22 (2) Eligible Records. The following records may be
23 sealed:

24 (A) All arrests resulting in release without
25 charging;

26 (B) Arrests or charges not initiated by arrest

1 resulting in acquittal, dismissal, or conviction when
2 the conviction was reversed or vacated, except as
3 excluded by subsection (a) (3) (B);

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

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

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

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

24 (3) When Records Are Eligible to Be Sealed. Records
25 identified as eligible under subsection (c) (2) may be
26 sealed as follows:

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

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

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

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

23 (E) Records identified as eligible under
24 subsection (c) (2) (C), (c) (2) (D), (c) (2) (E), or
25 (c) (2) (F) may be sealed upon termination of the
26 petitioner's last sentence if the petitioner earned a

1 high school diploma, associate's degree, career
2 certificate, vocational technical certification, or
3 bachelor's degree, or passed the high school level
4 Test of General Educational Development, during the
5 period of his or her sentence or mandatory supervised
6 release. This subparagraph shall apply only to a
7 petitioner who has not completed the same educational
8 goal prior to the period of his or her sentence or
9 mandatory supervised release. If a petition for
10 sealing eligible records filed under this subparagraph
11 is denied by the court, the time periods under
12 subparagraph (B) or (C) shall apply to any subsequent
13 petition for sealing filed by the petitioner.

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

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

1 (d) Procedure. The following procedures apply to
2 expungement under subsections (b), (e), and (e-6) and sealing
3 under subsections (c) and (e-5):

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

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

1 1, 2022.

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

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

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

24 (B) seal felony records for a violation of the
25 Illinois Controlled Substances Act, the
26 Methamphetamine Control and Community Protection Act,

1 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

12 (5) Objections.

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

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

24 (6) Entry of order.

25 (A) The Chief Judge of the circuit wherein the
26 charge was brought, any judge of that circuit

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

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

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

1 financial obligation to pursue collection under
2 applicable federal, State, or local law.

3 (D) Notwithstanding any other provision of law,
4 the court shall not deny a petition to expunge or seal
5 under this Section because the petitioner has
6 submitted a drug test taken within 30 days before the
7 filing of the petition to expunge or seal that
8 indicates a positive test for the presence of cannabis
9 within the petitioner's body. In this subparagraph
10 (D), "cannabis" has the meaning ascribed to it in
11 Section 3 of the Cannabis Control Act.

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

24 (A) the strength of the evidence supporting the
25 defendant's conviction;

26 (B) the reasons for retention of the conviction

1 records by the State;

2 (C) the petitioner's age, criminal record history,
3 and employment history;

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

7 (E) the specific adverse consequences the
8 petitioner may be subject to if the petition is
9 denied.

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

19 (9) Implementation of order.

20 (A) Upon entry of an order to expunge records
21 pursuant to subsection (b) (2) (A) or (b) (2) (B) (ii), or
22 both:

23 (i) the records shall be expunged (as defined
24 in subsection (a) (1) (E)) by the arresting agency,
25 the Illinois State Police, and any other agency as
26 ordered by the court, within 60 days of the date of

1 service of the order, unless a motion to vacate,
2 modify, or reconsider the order is filed pursuant
3 to paragraph (12) of subsection (d) of this
4 Section;

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (iii) the records shall be impounded by the
23 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 under 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 these
11 records from anyone not authorized by law to
12 access the records, the court, the Illinois State
13 Police, or the agency receiving the inquiry shall
14 reply as it does in response to inquiries when no
15 records ever existed.

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

26 (D) The Illinois State Police shall send written

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

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

1 of the Clerks of Courts Act and shall be immediately
2 re-impounded upon the collection of the outstanding
3 financial obligations.

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

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

1 previously sealed under this Section, the fee for the
2 expungement petition for that same record shall be waived.

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

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

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

1 modify, or reconsider its terms based on a motion filed
2 under paragraph (12) of this subsection (d).

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

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

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

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

1 is granted a pardon by the Governor 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 defendant'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 defendant
12 obliterated from the official index requested to be kept by
13 the circuit court clerk under Section 16 of the Clerks of
14 Courts Act in connection with the arrest and conviction for
15 the offense for which he or she had been pardoned but the order
16 shall not affect any index issued by the circuit court clerk
17 before the entry of the order. All records sealed by the
18 Illinois State Police may be disseminated by the Illinois
19 State Police only to the arresting authority, the State's
20 Attorney, and the court upon a later arrest for the same or
21 similar offense or for the purpose of sentencing for any
22 subsequent felony. Upon conviction for any subsequent offense,
23 the Department of Corrections shall have access to all sealed
24 records of the Illinois State Police pertaining to that
25 individual. Upon entry of the order of expungement, the
26 circuit court clerk shall promptly mail a copy of the order to

1 the person who was pardoned.

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

1 subsequent offense, the Department of Corrections shall have
2 access to all sealed records of the Illinois State Police
3 pertaining to that individual. Upon entry of the order of
4 sealing, the circuit court clerk shall promptly mail a copy of
5 the order to the person who was granted the certificate of
6 eligibility for sealing.

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

1 disseminated by the Illinois State Police only as required by
2 this Act or to the arresting authority, a law enforcement
3 agency, the State's Attorney, and the court upon a later
4 arrest for the same or similar offense or for the purpose of
5 sentencing for any subsequent felony. Upon conviction for any
6 subsequent offense, the Department of Corrections shall have
7 access to all expunged records of the Illinois State Police
8 pertaining to that individual. Upon entry of the order of
9 expungement, the circuit court clerk shall promptly mail a
10 copy of the order to the person who was granted the certificate
11 of eligibility for expungement.

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

24 (g) Immediate Sealing.

25 (1) Applicability. Notwithstanding any other provision
26 of this Act to the contrary, and cumulative with any

1 rights to expungement or sealing of criminal records, this
2 subsection authorizes the immediate sealing of criminal
3 records of adults and of minors prosecuted as adults.

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

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

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

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

25 (A) Filing the Petition. Upon entry of the final
26 disposition of the case, the defendant's attorney may

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

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

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

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

26 (E) Entry of Order. The presiding trial judge

1 shall enter an order granting or denying the petition
2 for immediate sealing during the hearing in which it
3 is filed. Petitions for immediate sealing shall be
4 ruled on in the same hearing in which the final
5 disposition of the case is entered.

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

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

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

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

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

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

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

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

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

22 (h) Sealing or vacation and expungement of trafficking
23 victims' crimes.

24 (1) A trafficking victim, as defined by paragraph (10)
25 of subsection (a) of Section 10-9 of the Criminal Code of
26 2012, may petition for vacation and expungement or

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

7 (1.5) A petition under paragraph (1) shall be
8 prepared, signed, and filed in accordance with Supreme
9 Court Rule 9. The court may allow the petitioner to attend
10 any required hearing remotely in accordance with local
11 rules. The court may allow a petition to be filed under
12 seal if the public filing of the petition would constitute
13 a risk of harm to the petitioner.

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

24 (3) If an objection is filed alleging that the
25 petitioner is not entitled to vacation and expungement or
26 immediate sealing under this subsection (h), the court

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

13 (i) Minor Cannabis Offenses under the Cannabis Control
14 Act.

15 (1) Expungement of Arrest Records of Minor Cannabis
16 Offenses.

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

24 (i) One year or more has elapsed since the
25 date of the arrest or law enforcement interaction
26 documented in the records; and

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

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

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

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

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

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

22 In response to an inquiry for expunged records,
23 the law enforcement agency receiving such inquiry
24 shall reply as it does in response to inquiries when no
25 records ever existed; however, it shall provide a
26 certificate of disposition or confirmation that the

1 record was expunged to the individual whose record was
2 expunged if such a record exists.

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

9 (2) Pardons Authorizing Expungement of Minor Cannabis
10 Offenses.

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

16 (i) one or more convictions for a Minor
17 Cannabis Offense;

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

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

26 (B) Within 180 days after June 25, 2019 (the

1 effective date of Public Act 101-27), the Department
2 of State Police shall notify the Prisoner Review Board
3 of all such records that meet the criteria established
4 in paragraph (2) (A).

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

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

22 (iii) The Prisoner Review Board shall make a
23 confidential and privileged recommendation to the
24 Governor as to whether to grant a pardon
25 authorizing expungement for each of the records
26 identified by the Department of State Police as

1 described in paragraph (2) (A) .

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

1 order. Upon entry of the order of expungement, the
2 circuit court clerk shall promptly provide a copy of
3 the order and a certificate of disposition to the
4 individual who was pardoned to the individual's last
5 known address or by electronic means (if available) or
6 otherwise make it available to the individual upon
7 request.

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

11 (3) Any individual may file a motion to vacate and
12 expunge a conviction for a misdemeanor or Class 4 felony
13 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. The circuit court clerk
18 shall promptly serve a copy of the motion to vacate and
19 expunge, and any supporting documentation, on the State's
20 Attorney or prosecutor charged with the duty of
21 prosecuting the offense. When considering such a motion to
22 vacate and expunge, a court shall consider the following:
23 the reasons to retain the records provided by law
24 enforcement, the petitioner's age, the petitioner's age at
25 the time of offense, the time since the conviction, and
26 the specific adverse consequences if denied. An individual

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

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

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

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

24 (6) If a person is arrested for a Minor Cannabis
25 Offense as defined in this Section before June 25, 2019
26 (the effective date of Public Act 101-27) and the person's

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

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

24 (8) The Illinois State Police shall allow a person to
25 use the access and review process, established in the
26 Illinois State Police, for verifying that his or her

1 records relating to Minor Cannabis Offenses of the
2 Cannabis Control Act eligible under this Section have been
3 expunged.

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

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

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

15 (j) Felony Prostitution Convictions.

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

24 (A) the reasons to retain the records provided by
25 law enforcement;

26 (B) the petitioner's age;

1 (C) the petitioner's age at the time of offense;
2 and

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

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

1 and expunge, a court shall consider the following reasons:

2 (A) the reasons to retain the records provided by
3 law enforcement;

4 (B) the petitioner's age;

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

6 (D) the time since the conviction; and

7 (E) the specific adverse consequences if denied.

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

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

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

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

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

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

9 (Source: P.A. 102-145, eff. 7-23-21; 102-558, 8-20-21;
10 102-639, eff. 8-27-21; 102-813, eff. 5-13-22; 102-933, eff.
11 1-1-23; 103-35, eff. 1-1-24; 103-154, eff. 6-30-23.)

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

14 (730 ILCS 166/35)

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

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

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

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

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

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

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

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

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

1 withdrawal.

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

7 (a-20) No participant may be dismissed from the program
8 unless, prior to dismissal, the participant is informed in
9 writing:

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

11 (2) the evidentiary basis supporting the reason or
12 reasons for the dismissal; and

13 (3) that the participant has a right to a hearing at
14 which the participant may present evidence supporting the
15 participant's continuation in the program.

16 (a-25) A participant who has not violated the conditions
17 of the program in such a way as to warrant unsuccessful
18 dismissal, but who is unable to complete program requirements
19 to qualify for a successful discharge, may be terminated from
20 the program as a neutral discharge.

21 (b) Upon successful completion of the terms and conditions
22 of the program, the court may dismiss the original charges
23 against the participant or successfully terminate the
24 participant's sentence or otherwise discharge the participant
25 from any further proceedings against the participant in the
26 original prosecution.

1 (c) Upon successful completion of the terms and conditions
2 of the program, any State's Attorney in the county of
3 conviction, participant, or defense attorney may move to
4 vacate any convictions that are eligible for sealing under the
5 Criminal Identification Act. A participant may ~~immediately~~
6 file a petition to expunge ~~vacated convictions~~ and the
7 associated ~~underlying~~ records pursuant to ~~per~~ the Criminal
8 Identification Act, including filing a petition in advance of
9 anticipated vacatur and dismissal. If the State's Attorney
10 moves to vacate a conviction, the State's Attorney may not
11 object to expungement of that conviction or the underlying
12 record.

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

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

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

20 (730 ILCS 167/35)

21 Sec. 35. Violation; termination; dismissal from the
22 program.

23 (a) If the court finds from the evidence presented,
24 including, but not limited to, the reports or proffers of

1 proof from the veterans and servicemembers court
2 professionals, that: (1) the participant is not complying with
3 the requirements of the treatment program; or (2) the
4 participant has otherwise violated the terms and conditions of
5 the program, the court may impose reasonable sanctions under
6 the prior written agreement of the participant, including, but
7 not limited to, imprisonment or dismissal of the participant
8 from the program and the court may reinstate criminal
9 proceedings against the participant or proceed under Section
10 5-6-4 of the Unified Code of Corrections for a violation of
11 probation, conditional discharge, or supervision hearing.

12 (a-5) Based on the evidence presented, the court shall
13 determine whether the participant has violated the conditions
14 of the program and whether the participant should be dismissed
15 from the program or whether, pursuant to the court's policies
16 and procedures, some other alternative may be appropriate in
17 the interests of the participant and the public.

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

24 (a-15) A participant may voluntarily withdraw from the
25 veterans and servicemembers court program in accordance with
26 the program's policies and procedures. Prior to allowing the

1 participant to withdraw, the judge shall:

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

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

6 (3) admonish the participant in open court as to
7 the consequences, actual or potential, which can
8 result from withdrawal.

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

14 (a-20) A participant who has not violated the conditions
15 of the program in such a way as to warrant unsuccessful
16 dismissal, but who is unable to complete program requirements
17 to qualify for a successful discharge, may be terminated from
18 the program as a neutral discharge.

19 (b) Upon successful completion of the terms and conditions
20 of the program, the court may dismiss the original charges
21 against the participant or successfully terminate the
22 participant's sentence or otherwise discharge the participant
23 from any further proceedings against the participant in the
24 original prosecution.

25 (c) Upon successful completion of the terms and conditions
26 of the program, any State's Attorney in the county of

1 conviction, a participant, or defense attorney may move to
2 vacate any convictions that are eligible for sealing under the
3 Criminal Identification Act. A participant may ~~immediately~~
4 file a petition to expunge ~~vacated convictions~~ and the
5 associated ~~underlying~~ records pursuant to ~~per~~ the Criminal
6 Identification Act, including filing a petition in advance of
7 anticipated vacatur and dismissal. If the State's Attorney
8 moves to vacate a conviction, the State's Attorney may not
9 object to expungement of that conviction or the underlying
10 record.

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

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

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

18 (730 ILCS 168/35)

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

20 (a) If the court finds from the evidence presented,
21 including, but not limited to, the reports or proffers of
22 proof from the mental health court professionals, that: (1)
23 the participant is not complying with the requirements of the
24 treatment program; or (2) the participant has otherwise

1 violated the terms and conditions of the program, the court
2 may impose reasonable sanctions under the prior written
3 agreement of the participant, including, but not limited to,
4 imprisonment or dismissal of the defendant from the program
5 and the court may reinstate criminal proceedings against the
6 participant or proceed under Section 5-6-4 of the Unified Code
7 of Corrections for a violation of probation, conditional
8 discharge, or supervision hearing.

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

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

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

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

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

26 Upon withdrawal, the criminal proceedings may be

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

5 (a-15) No participant may be dismissed from the program
6 unless, prior to such dismissal, the participant is informed
7 in writing: (i) of the reason or reasons for the dismissal;
8 (ii) the evidentiary basis supporting the reason or reasons
9 for the dismissal; (iii) that the participant has a right to a
10 hearing at which he or she may present evidence supporting his
11 or her continuation in the program.

12 (a-20) A participant who has not violated the conditions
13 of the program in such a way as to warrant unsuccessful
14 dismissal, but who is unable to complete program requirements
15 to qualify for a successful discharge, may be terminated from
16 the program as a neutral discharge.

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

23 (c) Upon successful completion of the terms and conditions
24 of the program, any State's Attorney in the county of
25 conviction, a participant, or defense attorney may move to
26 vacate any convictions that are eligible for sealing under the

1 Criminal Identification Act. A participant may ~~immediately~~
2 file a petition to expunge ~~vacated convictions~~ and the
3 associated ~~underlying~~ records pursuant to ~~per~~ the Criminal
4 Identification Act, including filing a petition in advance of
5 anticipated vacatur and dismissal. If the State's Attorney
6 moves to vacate a conviction, the State's Attorney may not
7 object to expungement of that conviction or the underlying
8 record.

9 (d) The mental health court program may maintain or
10 collaborate with a network of legal aid organizations that
11 specialize in conviction relief to support participants
12 navigating the expungement and sealing process.
13 (Source: P.A. 102-1041, eff. 6-2-22.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."