

HB2367



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2367

Introduced 2/17/2021, by Rep. Maurice A. West, II

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that no fee shall be required if the records sought to be expunged or sealed were arrests resulting in release without charging or arrests or charges not initiated by arrest resulting in acquittal, dismissal, or conviction when the conviction was reversed or vacated, except for the expungement or sealing of certain records of minor traffic violations. Eliminates the county fee waiver pilot program that was only applicable in counties of 3,000,000 or more inhabitants that was set to expire on January 1, 2022.

LRB102 12076 RLC 17413 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

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

6 (20 ILCS 2630/5.2)

7 Sec. 5.2. Expungement, sealing, and immediate 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 Unified Code of Corrections,
14 730 ILCS 5/5-1-2 through 5/5-1-22:

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

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

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

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

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

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

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

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

23 (ix) Offense (730 ILCS 5/5-1-15),

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

7 (B) As used in this Section, "charge not initiated
8 by arrest" means a charge (as defined by 730 ILCS
9 5/5-1-3) brought against a defendant where the
10 defendant is not arrested prior to or as a direct
11 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) Sections 12-3.1 or 12-3.2 of the
2 Criminal Code of 1961 or the Criminal Code of
3 2012, or Section 125 of the Stalking No Contact
4 Order Act, or Section 219 of the Civil No Contact
5 Order Act, or a similar provision of a local
6 ordinance;

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

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

12 (D) (blank).

13 (b) Expungement.

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

1 (1.5) When a petitioner seeks to have a record of
2 arrest expunged under this Section, and the offender has
3 been convicted of a criminal offense, the State's Attorney
4 may object to the expungement on the grounds that the
5 records contain specific relevant information aside from
6 the mere fact of the arrest.

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

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

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

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

1 the supervision.

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

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

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

24 (3) Those records maintained by the Department for
25 persons arrested prior to their 17th birthday shall be
26 expunged as provided in Section 5-915 of the Juvenile

1 Court Act of 1987.

2 (4) Whenever a person has been arrested for or
3 convicted of any offense, in the name of a person whose
4 identity he or she has stolen or otherwise come into
5 possession of, the aggrieved person from whom the identity
6 was stolen or otherwise obtained without authorization,
7 upon learning of the person having been arrested using his
8 or her identity, may, upon verified petition to the chief
9 judge of the circuit wherein the arrest was made, have a
10 court order entered nunc pro tunc by the Chief Judge to
11 correct the arrest record, conviction record, if any, and
12 all official records of the arresting authority, the
13 Department, other criminal justice agencies, the
14 prosecutor, and the trial court concerning such arrest, if
15 any, by removing his or her name from all such records in
16 connection with the arrest and conviction, if any, and by
17 inserting in the records the name of the offender, if
18 known or ascertainable, in lieu of the aggrieved's name.
19 The records of the circuit court clerk shall be sealed
20 until further order of the court upon good cause shown and
21 the name of the aggrieved person obliterated on the
22 official index required to be kept by the circuit court
23 clerk under Section 16 of the Clerks of Courts Act, but the
24 order shall not affect any index issued by the circuit
25 court clerk before the entry of the order. Nothing in this
26 Section shall limit the Department of State Police or

1 other criminal justice agencies or prosecutors from
2 listing under an offender's name the false names he or she
3 has used.

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

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

1 in subsection (b) of Section 5-5-4 of the Unified Code of
2 Corrections.

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

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

24 (c) Sealing.

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

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

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

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

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

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

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

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

1 Act, or Section 5-6-3.3 of the Unified Code of
2 Corrections; and

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

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

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

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

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

1 not be sealed until the petitioner is no longer
2 required to register under that relevant Act.

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

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

23 (4) Subsequent felony convictions. A person may not
24 have subsequent felony conviction records sealed as
25 provided in this subsection (c) if he or she is convicted
26 of any felony offense after the date of the sealing of

1 prior felony convictions as provided in this subsection
2 (c). The court may, upon conviction for a subsequent
3 felony offense, order the unsealing of prior felony
4 conviction records previously ordered sealed by the court.

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

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

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

25 (1.5) Fee County ~~fee~~ waiver ~~pilot~~ program. No fee
26 shall be required if the records sought to be expunged or

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

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

1 (10) of subsection (a) of Section 3-3-2 of the Unified
2 Code of Corrections, the certificate shall be attached to
3 the petition.

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

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

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

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

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

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

1 (5) Objections.

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

10 (B) Objections to a petition to expunge or seal
11 must be filed within 60 days of the date of service of
12 the petition.

13 (6) Entry of order.

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

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

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

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

1 the petition to expunge or seal the records based on the
2 evidence presented at the hearing. The court may consider
3 the following:

4 (A) the strength of the evidence supporting the
5 defendant's conviction;

6 (B) the reasons for retention of the conviction
7 records by the State;

8 (C) the petitioner's age, criminal record history,
9 and employment history;

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

13 (E) the specific adverse consequences the
14 petitioner may be subject to if the petition is
15 denied.

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

25 (9) Implementation of order.

26 (A) Upon entry of an order to expunge records

1 pursuant to (b) (2) (A) or (b) (2) (B) (ii), or both:

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

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

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

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

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 pursuant to 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 Department within 60 days of the date of service
16 of the order as ordered by the court, unless a
17 motion to vacate, modify, or reconsider the order
18 is filed pursuant to paragraph (12) of subsection
19 (d) of this Section;

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

1 offense; and

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

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

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

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

25 (iii) the records shall be impounded by the
26 Department within 60 days of the date of service

1 of the order as ordered by the court, unless a
2 motion to vacate, modify, or reconsider the order
3 is filed under paragraph (12) of subsection (d) of
4 this Section;

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

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

19 (C) Upon entry of an order to seal records under
20 subsection (c), the arresting agency, any other agency
21 as ordered by the court, the Department, and the court
22 shall seal the records (as defined in subsection
23 (a)(1)(K)). In response to an inquiry for such
24 records, from anyone not authorized by law to access
25 such records, the court, the Department, or the agency
26 receiving such inquiry shall reply as it does in

1 response to inquiries when no records ever existed.

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

18 (E) Upon motion, the court may order that a sealed
19 judgment or other court record necessary to
20 demonstrate the amount of any legal financial
21 obligation due and owing be made available for the
22 limited purpose of collecting any legal financial
23 obligations owed by the petitioner that were
24 established, imposed, or originated in the criminal
25 proceeding for which those records have been sealed.
26 The records made available under this subparagraph (E)

1 shall not be entered into the official index required
2 to be kept by the circuit court clerk under Section 16
3 of the Clerks of Courts Act and shall be immediately
4 re-impounded upon the collection of the outstanding
5 financial obligations.

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

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

1 shall be deposited in the State Police Services Fund. If
2 the record brought under an expungement petition was
3 previously sealed under this Section, the fee for the
4 expungement petition for that same record shall be waived.

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

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

22 (13) Effect of Order. An order granting a petition
23 under the expungement or sealing provisions of this
24 Section shall not be considered void because it fails to
25 comply with the provisions of this Section or because of
26 any error asserted in a motion to vacate, modify, or

1 reconsider. The circuit court retains jurisdiction to
2 determine whether the order is voidable and to vacate,
3 modify, or reconsider its terms based on a motion filed
4 under paragraph (12) of this subsection (d).

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

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

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

1 August 5, 2013 (the effective date of Public Act 98-163).

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

1 order of expungement, the circuit court clerk shall promptly
2 mail a copy of the order to the person who was pardoned.

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

1 any subsequent offense, the Department of Corrections shall
2 have access to all sealed records of the Department pertaining
3 to that individual. Upon entry of the order of sealing, the
4 circuit court clerk shall promptly mail a copy of the order to
5 the person who was granted the certificate of eligibility for
6 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 Department be sealed until
18 further order of the court upon good cause shown or as
19 otherwise provided herein, and the name of the petitioner
20 obliterated from the official index requested to be kept by
21 the circuit court clerk under Section 16 of the Clerks of
22 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 Department may be disseminated by the

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

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

23 (g) Immediate Sealing.

24 (1) Applicability. Notwithstanding any other provision
25 of this Act to the contrary, and cumulative with any
26 rights to expungement or sealing of criminal records, this

1 subsection authorizes the immediate sealing of criminal
2 records of adults and of minors prosecuted as adults.

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

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

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

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

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

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

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

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

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

25 (E) Entry of Order. The presiding trial judge
26 shall enter an order granting or denying the petition

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

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

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

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

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

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

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

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

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

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

21 (h) Sealing; trafficking victims.

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

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

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

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

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

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

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

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

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

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

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

26 (C) Records shall be expunged by the law

1 enforcement agency under the following timelines:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (D) Nothing in this Section is intended to
25 diminish or abrogate any rights or remedies otherwise
26 available to the individual.

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

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

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

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

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

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

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

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

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

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

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

1 before the arrest, charge, or conviction.

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

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