



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3085

Introduced 2/19/2021, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

410 ILCS 705/10-15

720 ILCS 550/5

720 ILCS 550/4 rep.

from Ch. 56 1/2, par. 705

Amends the Criminal Identification Act. Provides that the Illinois State Police and all law enforcement agencies within the State shall automatically expunge all criminal history records of an arrest, charge not initiated by arrest, order of supervision, or order of qualified probation for any person who, on or after January 1, 1970, has been convicted of, or is serving an order of supervision for, possession or delivery, but not manufacture or production, of cannabis whether or not the person has served or is serving his or her sentence for that violation on the effective date of the amendatory Act. Provides that the clerk of the circuit court shall, on the effective date of the amendatory Act, automatically expunge the court records of a person who, on or after January 1, 1970, has been convicted of, or is serving an order of supervision for, possession or delivery, but not manufacture or production, of cannabis whether or not the person has served or is serving his or her sentence for that violation on the effective date of the amendatory Act. Provides that a person imprisoned solely as a result of one or more convictions for possession or delivery, but not manufacture or production, of cannabis shall be released from incarceration on the effective date of the amendatory Act. Amends the Cannabis Control Act. Repeals the provision prohibiting the possession of cannabis. Modifies the provision prohibiting the delivery or manufacture of cannabis so it applies only to manufacture or production of cannabis. Amends the Cannabis Regulation and Tax Act to make conforming changes.

LRB102 16225 RLC 21605 b

1 AN ACT concerning cannabis.

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 indicated Sections of the
 14 Unified Code of Corrections, ~~730 ILCS 5/5-1-2 through~~
 15 ~~5/5-1-22:~~

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

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

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

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

1 (v) Felony, Section 5-1-9. ~~(730 ILCS 5/5-1-9),~~

2 (vi) Imprisonment, Section 5-1-10. ~~(730 ILCS~~
3 ~~5/5-1-10),~~

4 (vii) Judgment, Section 5-1-12. ~~(730 ILCS~~
5 ~~5/5-1-12),~~

6 (viii) Misdemeanor, Section 5-1-2. ~~(730 ILCS~~
7 ~~5/5-1-14),~~

8 (ix) Offense, Section 5-1-15. ~~(730 ILCS~~
9 ~~5/5-1-15),~~

10 (x) Parole, Section 5-1-16. ~~(730 ILCS~~
11 ~~5/5-1-16),~~

12 (xi) Petty Offense, Section 5-1-17. ~~(730 ILCS~~
13 ~~5/5-1-17),~~

14 (xii) Probation, Section 5-1-18. ~~(730 ILCS~~
15 ~~5/5-1-18),~~

16 (xiii) Sentence, Section 5-1-19. ~~(730 ILCS~~
17 ~~5/5-1-19),~~

18 (xiv) Supervision, Section 5-1-21. ~~(730 ILCS~~
19 ~~5/5-1-21), and~~

20 (xv) Victim, Section 5-1-2. ~~(730 ILCS~~
21 ~~5/5-1-22).~~

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

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

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

22 (E) "Expunge" means to physically destroy the
23 records or return them to the petitioner and to
24 obliterate the petitioner's name from any official
25 index or public record, or both. Nothing in this Act
26 shall require the physical destruction of the circuit

1 court file, but such records relating to arrests or
2 charges, or both, ordered expunged shall be impounded
3 as required by subsections (d)(9)(A)(ii) and
4 (d)(9)(B)(ii).

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

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

23 (G-5) "Minor Cannabis Offense" means a violation
24 of Section 4 or 5 of the Cannabis Control Act
25 concerning not more than 30 grams of any substance
26 containing cannabis, provided the violation did not

1 include a penalty enhancement under Section 7 of the
2 Cannabis Control Act and is not associated with an
3 arrest, conviction or other disposition for a violent
4 crime as defined in subsection (c) of Section 3 of the
5 Rights of Crime Victims and Witnesses Act.

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

11 (I) "Petitioner" means an adult or a minor
12 prosecuted as an adult who has applied for relief
13 under this Section.

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

1 qualified probation under Section 10-102 of the
2 Illinois Alcoholism and Other Drug Dependency Act and
3 Section 40-10 of the Substance Use Disorder Act means
4 that the probation was terminated satisfactorily and
5 the judgment of conviction was vacated.

6 (K) "Seal" means to physically and electronically
7 maintain the records, unless the records would
8 otherwise be destroyed due to age, but to make the
9 records unavailable without a court order, subject to
10 the exceptions in Sections 12 and 13 of this Act. The
11 petitioner's name shall also be obliterated from the
12 official index required to be kept by the circuit
13 court clerk under Section 16 of the Clerks of Courts
14 Act, but any index issued by the circuit court clerk
15 before the entry of the order to seal shall not be
16 affected.

17 (L) "Sexual offense committed against a minor"
18 includes, but is not limited to, the offenses of
19 indecent solicitation of a child or criminal sexual
20 abuse when the victim of such offense is under 18 years
21 of age.

22 (M) "Terminate" as it relates to a sentence or
23 order of supervision or qualified probation includes
24 either satisfactory or unsatisfactory termination of
25 the sentence, unless otherwise specified in this
26 Section. A sentence is terminated notwithstanding any

1 outstanding financial legal obligation.

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

6 (2.5) Commencing 180 days after July 29, 2016 (the
7 effective date of Public Act 99-697), the law enforcement
8 agency issuing the citation shall automatically expunge,
9 on or before January 1 and July 1 of each year, the law
10 enforcement records of a person found to have committed a
11 civil law violation of subsection (a) of Section 4 of the
12 Cannabis Control Act or subsection (c) of Section 3.5 of
13 the Drug Paraphernalia Control Act in the law enforcement
14 agency's possession or control and which contains the
15 final satisfactory disposition which pertain to the person
16 issued a citation for that offense. The law enforcement
17 agency shall provide by rule the process for access,
18 review, and to confirm the automatic expungement by the
19 law enforcement agency issuing the citation. Commencing
20 180 days after July 29, 2016 (the effective date of Public
21 Act 99-697), the clerk of the circuit court shall expunge,
22 upon order of the court, or in the absence of a court order
23 on or before January 1 and July 1 of each year, the court
24 records of a person found in the circuit court to have
25 committed a civil law violation of subsection (a) of
26 Section 4 of the Cannabis Control Act or subsection (c) of

1 Section 3.5 of the Drug Paraphernalia Control Act in the
2 clerk's possession or control and which contains the final
3 satisfactory disposition which pertain to the person
4 issued a citation for any of those offenses.

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

8 (A) the sealing or expungement of the records of
9 arrests or charges not initiated by arrest that result
10 in an order of supervision for or conviction of: (i)
11 any sexual offense committed against a minor; (ii)
12 Section 11-501 of the Illinois Vehicle Code or a
13 similar provision of a local ordinance; or (iii)
14 Section 11-503 of the Illinois Vehicle Code or a
15 similar provision of a local ordinance, unless the
16 arrest or charge is for a misdemeanor violation of
17 subsection (a) of Section 11-503 or a similar
18 provision of a local ordinance, that occurred prior to
19 the offender reaching the age of 25 years and the
20 offender has no other conviction for violating Section
21 11-501 or 11-503 of the Illinois Vehicle Code or a
22 similar provision of a local ordinance.

23 (B) the sealing or expungement of records of minor
24 traffic offenses (as defined in subsection (a)(1)(G)),
25 unless the petitioner was arrested and released
26 without charging.

1 (C) the sealing of the records of arrests or
2 charges not initiated by arrest which result in an
3 order of supervision or a conviction for the following
4 offenses:

5 (i) offenses included in Article 11 of the
6 Criminal Code of 1961 or the Criminal Code of 2012
7 or a similar provision of a local ordinance,
8 except Section 11-14 and a misdemeanor violation
9 of Section 11-30 of the Criminal Code of 1961 or
10 the Criminal Code of 2012, or a similar provision
11 of a local ordinance;

12 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
13 26-5, or 48-1 of the Criminal Code of 1961 or the
14 Criminal Code of 2012, or a similar provision of a
15 local ordinance;

16 (iii) Sections 12-3.1 or 12-3.2 of the
17 Criminal Code of 1961 or the Criminal Code of
18 2012, or Section 125 of the Stalking No Contact
19 Order Act, or Section 219 of the Civil No Contact
20 Order Act, or a similar provision of a local
21 ordinance;

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

24 (v) any offense or attempted offense that
25 would subject a person to registration under the
26 Sex Offender Registration Act.

1 (D) (blank).

2 (b) Expungement.

3 (1) A petitioner may petition the circuit court to
4 expunge the records of his or her arrests and charges not
5 initiated by arrest when each arrest or charge not
6 initiated by arrest sought to be expunged resulted in: (i)
7 acquittal, dismissal, or the petitioner's release without
8 charging, unless excluded by subsection (a)(3)(B); (ii) a
9 conviction which was vacated or reversed, unless excluded
10 by subsection (a)(3)(B); (iii) an order of supervision and
11 such supervision was successfully completed by the
12 petitioner, unless excluded by subsection (a)(3)(A) or
13 (a)(3)(B); or (iv) an order of qualified probation (as
14 defined in subsection (a)(1)(J)) and such probation was
15 successfully completed by the petitioner.

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

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

23 (A) When the arrest or charge not initiated by
24 arrest sought to be expunged resulted in an acquittal,
25 dismissal, the petitioner's release without charging,
26 or the reversal or vacation of a conviction, there is

1 no waiting period to petition for the expungement of
2 such records.

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

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

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

1 petitioner has reached the age of 25 years.

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

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

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

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

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

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

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

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

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

1 of Section 12-3.05 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, Section 10-102 of the Illinois
3 Alcoholism and Other Drug Dependency Act, Section 40-10 of
4 the Substance Use Disorder Act, or Section 10 of the
5 Steroid Control Act.

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

13 (c) Sealing.

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

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

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

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

1 excluded by subsection (a) (3) (B);

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

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

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

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

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

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

1 any time.

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

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

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

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

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

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

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

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

1 under subsections (c) and (e-5):

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

14 (1.5) County fee waiver pilot program. From August 9,
15 2019 (the effective date of Public Act 101-306) through
16 December 31, 2020, in a county of 3,000,000 or more
17 inhabitants, no fee shall be required to be paid by a
18 petitioner if the records sought to be expunged or sealed
19 were arrests resulting in release without charging or
20 arrests or charges not initiated by arrest resulting in
21 acquittal, dismissal, or conviction when the conviction
22 was reversed or vacated, unless excluded by subsection
23 (a)(3)(B). The provisions of this paragraph (1.5), other
24 than this sentence, are inoperative on and after January
25 1, 2022.

26 (2) Contents of petition. The petition shall be

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

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

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

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

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

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

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

11 (5) Objections.

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

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

23 (6) Entry of order.

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

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

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

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

1 applicable federal, State, or local law.

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

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

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

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

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

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

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

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

9 (9) Implementation of order.

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

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

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

1 and

2 (iii) in response to an inquiry for expunged
3 records, the court, the Department, or the agency
4 receiving such inquiry, shall reply as it does in
5 response to inquiries when no records ever
6 existed.

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

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

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

24 (iii) the records shall be impounded by the
25 Department within 60 days of the date of service
26 of the order as ordered by the court, unless a

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

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

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

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

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

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

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

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

23 (v) in response to an inquiry for these
24 records from anyone not authorized by law to
25 access the records, the court, the Department, or
26 the agency receiving the inquiry shall reply as it

1 does in response to inquiries when no records ever
2 existed.

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

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

1 pending.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (f) Subject to available funding, the Illinois Department
22 of Corrections shall conduct a study of the impact of sealing,
23 especially on employment and recidivism rates, utilizing a
24 random sample of those who apply for the sealing of their
25 criminal records under Public Act 93-211. At the request of
26 the Illinois Department of Corrections, records of the

1 Illinois Department of Employment Security shall be utilized
2 as appropriate to assist in the study. The study shall not
3 disclose any data in a manner that would allow the
4 identification of any particular individual or employing unit.
5 The study shall be made available to the General Assembly no
6 later than September 1, 2010.

7 (g) Immediate Sealing.

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

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

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

26 (4) Notice of Eligibility for Immediate Sealing. Upon

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

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

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

21 (B) Contents of Petition. The immediate sealing
22 petition shall be verified and shall contain the
23 petitioner's name, date of birth, current address, and
24 for each eligible record, the case number, the date of
25 arrest if applicable, the identity of the arresting
26 authority if applicable, and other information as the

1 court may require.

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

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

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

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

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

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

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

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

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

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

25 (M) Compliance with Order Granting Petition to
26 Seal Records. Unless a court has entered a stay of an

1 order granting a petition to immediately seal, all
2 parties entitled to service of the order must fully
3 comply with the terms of the order within 60 days of
4 service of the order.

5 (h) Sealing; trafficking victims.

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

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

25 (3) If an objection is filed alleging that the
26 petitioner is not entitled to immediate sealing under this

1 subsection (h), the court shall conduct a hearing under
2 paragraph (7) of subsection (d) of this Section and the
3 court shall determine whether the petitioner is entitled
4 to immediate sealing under this subsection (h). A
5 petitioner is eligible for immediate relief under this
6 subsection (h) if he or she shows, by a preponderance of
7 the evidence, that: (A) he or she was a victim of human
8 trafficking at the time of the offense; and (B) that his or
9 her participation in the offense was a direct result of
10 human trafficking under Section 10-9 of the Criminal Code
11 of 2012 or a severe form of trafficking under the federal
12 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 Department of 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 Department of State Police be
20 expunged and the name of the defendant obliterated
21 from the official index requested to be kept by the
22 circuit court clerk under Section 16 of the Clerks of
23 Courts Act in connection with the arrest and
24 conviction for the offense for which the individual
25 had received a pardon but the order shall not affect
26 any index issued by the circuit court clerk before the

1 entry of the order. Upon entry of the order of
2 expungement, the circuit court clerk shall promptly
3 provide a copy of the order and a certificate of
4 disposition to the individual who was pardoned to the
5 individual's last known address or by electronic means
6 (if available) or otherwise make it available to the
7 individual upon 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 Department of State Police shall allow a
25 person to use the access and review process, established
26 in the Department of State Police, for verifying that his

1 or her 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 Department of State Police shall
13 post general information on its website about the
14 expungement process described in this subsection (i).

15 (j) Notwithstanding any other provision of this Section to
16 the contrary, the Illinois State Police and all law
17 enforcement agencies within the State shall automatically
18 expunge all criminal history records of an arrest, charge not
19 initiated by arrest, order of supervision, or order of
20 qualified probation for any person who, on or after January 1,
21 1970, has been convicted of, pled guilty to, or is serving an
22 order of supervision for, a violation of Section 4 or 5 of the
23 Cannabis Control Act or a predecessor law of this State
24 prohibiting the possession or delivery of cannabis whether or
25 not the person has served or is serving his or her sentence for
26 that violation on the effective date of this amendatory Act of

1 the 102nd General Assembly. The clerk of the circuit court
2 shall, on the effective date of this amendatory Act of the
3 102nd General Assembly, automatically expunge the court
4 records of a person who, on or after January 1, 1970, has been
5 convicted of, or is serving an order of supervision for, a
6 violation of Section 4 or 5 of the Cannabis Control Act or a
7 predecessor law of this State prohibiting the possession or
8 delivery of cannabis whether or not the person has served or is
9 serving his or her sentence for that violation on the
10 effective date of this amendatory Act of the 102nd General
11 Assembly. A person imprisoned solely as a result of one or more
12 convictions for a violation of Section 4 or 5 of the Cannabis
13 Control Act under this subsection (j) shall be released from
14 incarceration on the effective date of this amendatory Act of
15 the 102nd General Assembly. This subsection (j) does not apply
16 to offenses involving the manufacture or production of
17 cannabis.

18 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;
19 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.
20 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,
21 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
22 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
23 12-4-19; 101-645, eff. 6-26-20; revised 8-18-20.)

24 Section 10. The Cannabis Regulation and Tax Act is amended
25 by changing Section 10-15 as follows:

1 (410 ILCS 705/10-15)

2 Sec. 10-15. Persons under 21 years of age.

3 (a) Nothing in this Act is intended to permit the transfer
4 of cannabis, with or without remuneration, to a person under
5 21 years of age, or to allow a person under 21 years of age to
6 purchase, possess, use, process, transport, grow, or consume
7 cannabis except where authorized by the Compassionate Use of
8 Medical Cannabis Program Act or by the Community College
9 Cannabis Vocational Pilot Program.

10 (b) Notwithstanding any other provisions of law
11 authorizing the possession of medical cannabis, nothing in
12 this Act authorizes a person who is under 21 years of age to
13 possess cannabis. A person under 21 years of age with cannabis
14 in his or her possession is guilty of a civil law violation as
15 outlined in paragraph (a) of Section 4 of the Cannabis Control
16 Act as it existed on the effective date of this amendatory Act
17 of the 102nd General Assembly.

18 (c) If the person under the age of 21 was in a motor
19 vehicle at the time of the offense, the Secretary of State may
20 suspend or revoke the driving privileges of any person for a
21 violation of this Section under Section 6-206 of the Illinois
22 Vehicle Code and the rules adopted under it.

23 (d) It is unlawful for any parent or guardian to knowingly
24 permit his or her residence, any other private property under
25 his or her control, or any vehicle, conveyance, or watercraft

1 under his or her control to be used by an invitee of the
2 parent's child or the guardian's ward, if the invitee is under
3 the age of 21, in a manner that constitutes a violation of this
4 Section. A parent or guardian is deemed to have knowingly
5 permitted his or her residence, any other private property
6 under his or her control, or any vehicle, conveyance, or
7 watercraft under his or her control to be used in violation of
8 this Section if he or she knowingly authorizes or permits
9 consumption of cannabis by underage invitees. Any person who
10 violates this subsection (d) is guilty of a Class A
11 misdemeanor and the person's sentence shall include, but shall
12 not be limited to, a fine of not less than \$500. If a violation
13 of this subsection (d) directly or indirectly results in great
14 bodily harm or death to any person, the person violating this
15 subsection is guilty of a Class 4 felony. In this subsection
16 (d), where the residence or other property has an owner and a
17 tenant or lessee, the trier of fact may infer that the
18 residence or other property is occupied only by the tenant or
19 lessee.

20 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

21 Section 15. The Cannabis Control Act is amended by
22 changing Section 5 as follows:

23 (720 ILCS 550/5) (from Ch. 56 1/2, par. 705)

24 Sec. 5. Except as otherwise provided in the Cannabis

1 Regulation and Tax Act and the Industrial Hemp Act, it is
2 unlawful for any person knowingly to manufacture,~~deliver,~~ or
3 possess with intent to ~~deliver, or~~ manufacture, cannabis. Any
4 person who violates this Section with respect to:

5 (a) not more than 2.5 grams of any substance
6 containing cannabis is guilty of a Class B misdemeanor;

7 (b) more than 2.5 grams but not more than 10 grams of
8 any substance containing cannabis is guilty of a Class A
9 misdemeanor;

10 (c) more than 10 grams but not more than 30 grams of
11 any substance containing cannabis is guilty of a Class 4
12 felony;

13 (d) more than 30 grams but not more than 500 grams of
14 any substance containing cannabis is guilty of a Class 3
15 felony for which a fine not to exceed \$50,000 may be
16 imposed;

17 (e) more than 500 grams but not more than 2,000 grams
18 of any substance containing cannabis is guilty of a Class
19 2 felony for which a fine not to exceed \$100,000 may be
20 imposed;

21 (f) more than 2,000 grams but not more than 5,000
22 grams of any substance containing cannabis is guilty of a
23 Class 1 felony for which a fine not to exceed \$150,000 may
24 be imposed;

25 (g) more than 5,000 grams of any substance containing
26 cannabis is guilty of a Class X felony for which a fine not

1 to exceed \$200,000 may be imposed.

2 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

3 (720 ILCS 550/4 rep.)

4 Section 20. The Cannabis Control Act is amended by
5 repealing Section 4.