



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4090

Introduced 5/25/2021, by Rep. Marcus C. Evans, Jr.

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/116-2.2 new

Amends the Code of Criminal Procedure of 1963. Provides that a motion to vacate convictions for certain offenses under the Cannabis Control Act may be filed at any time following the entry of a verdict or finding of guilty, provided that reasonable notice is served upon the State. Provides that the court shall grant the motion. Provides that upon vacating the conviction, the court shall take specified actions appropriate in the circumstances. Provides that these actions may include entering an order expunging certain records. Provides that, for individuals incarcerated solely on vacated convictions, the court shall provide for the immediate release from incarceration, including, but not limited to, relief from any period of probation or mandatory supervised release. Provides that the court shall, for individuals serving sentences for certain vacated convictions concurrently with any other conviction, upon motion of the defendant, grant a retrial for other specified convictions. Provides that the court shall grant such other relief as is appropriate in the circumstances.

LRB102 17509 KMF 23081 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by adding Section 116-2.2 as follows:

6 (725 ILCS 5/116-2.2 new)

7 Sec. 116-2.2. Motion to vacate convictions for cannabis  
8 offenses.

9 (a) A motion under this Section may be filed at any time  
10 following the entry of a verdict or finding of guilty where the  
11 conviction was under any of the following Sections of the  
12 Cannabis Control Act: Section 4 (possession of cannabis);  
13 Section 5 (manufacture or delivery of cannabis, or possession  
14 with intent to manufacture or deliver cannabis); Section 5.1  
15 (cannabis trafficking); Section 5.2 (delivery of cannabis on  
16 school grounds); Section 5.3 (unlawful use of cannabis-based  
17 product manufacturing equipment); Section 7 (delivery of  
18 cannabis to minors); Section 8 (production or possession of  
19 cannabis sativa plant); or Section 9 (calculated criminal  
20 cannabis conspiracy).

21 (b) The court shall grant the motion. Upon vacating the  
22 conviction, the court shall, as is appropriate in the  
23 circumstances:

1           (1) For all convictions vacated under this Section,  
2           within 90 days after the conviction is vacated, enter an  
3           order expunging the records of arrest from the official  
4           records of the arresting authority and order that the  
5           records of the circuit court clerk and the Department of  
6           State Police be expunged and the name of the defendant  
7           obliterated from the official index requested to be kept  
8           by the circuit court clerk under Section 16 of the Clerks  
9           of Courts Act in connection with the arrest and  
10           conviction, provided that the order shall not affect any  
11           index issued by the circuit court clerk before the entry  
12           of the order. Upon entry of the order of expungement, the  
13           circuit court clerk shall promptly provide a copy of the  
14           order and a certificate of disposition to the defendant at  
15           his or her last known address or by electronic means (if  
16           available) or otherwise make it available to the defendant  
17           upon request.

18           (2) For individuals incarcerated solely on the basis  
19           of convictions vacated under this Section, the court shall  
20           also provide for the immediate release of the individual  
21           from incarceration together with relief from any  
22           post-incarceration restrictions or conditions ordered by  
23           the court or otherwise provided for by law, including, but  
24           not limited to, relief from any period of probation or  
25           mandatory supervised release and the payment of the  
26           remaining balance due of any fines or fees.

1           (3) For individuals serving sentences for convictions  
2           vacated under this Section concurrently with any other  
3           conviction, upon motion of the defendant, grant a retrial  
4           for any convictions not vacated under this Section.

5           (4) Grant such other relief as is appropriate in the  
6           circumstances.