



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4527

Introduced 1/21/2022, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 2630/5.2

730 ILCS 5/5-9-1

730 ILCS 5/5-9-2

730 ILCS 5/5-9-3 rep.

from Ch. 38, par. 1005-9-1

from Ch. 38, par. 1005-9-2

Creates the Second Chance State Reimagined Justice Act. Contains declarations and findings. Provides that the clerk of the circuit court shall provide an arraigned defendant with written information about the Reimagined Justice Program, sets forth criteria for participation in a Program, and provides that, if an eligible defendant consents to participation in a Program, a pretrial navigator assigned to the eligible defendant shall create a proposed Program. Specifies the contents of a proposed Reimagined Justice Program. Provides that the court shall conduct a hearing on the eligible defendant's proposed Reimagined Justice Program. Provides for procedure and matters to be considered at the hearing and for the approval, modification, or rejection of the proposed Reimagined Justice Program. Provides for the implementation and completion of the Reimagined Justice Program or for the resumption of criminal proceedings under specified circumstances. Provides that the Department of Returning Resident Affairs shall annually report on the efficacy of the Reimagined Justice Program. Amends the Criminal Identification Act. Provides for the immediate expungement of certain records under specified circumstances. Amends the Fines Article of the Unified Code of Corrections. In provisions regarding the determination of the amount and method of payment of a fine, adds criteria to be considered by the court and applies specified provisions to restitution. Adds provisions regarding collection of fines and restitution and the revocation of a fine or restitution. Repeals a Section providing that an offender who defaults in the payment of a fine or any installment of that fine may be held in contempt and imprisoned for nonpayment and that the court may issue a summons or a warrant of arrest. Contains provisions regarding severability and other matters. Effective immediately, but certain provisions do not take effect at all unless another Act becomes law.

LRB102 22626 RLC 31769 b

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 1. Short title. This Act may be cited as the Second
5 Chance State Reimagined Justice Act.

6 Section 5. Legislative declarations and findings. The
7 General Assembly finds and declares that:

8 (1) It is in the best interests of the people of Illinois
9 to move from our failed response to crime, which prioritizes
10 incarceration for the purpose of imposing punishment and
11 creating deterrence.

12 (2) The intolerable 41% recidivism rate in Illinois, with
13 a cost of over \$151,000 for each recidivism event, 39% rate of
14 formerly incarcerated individuals being re-arrested for a
15 violent crime within 9 years of release and 83% rate of
16 homicide offenders in Illinois having arrest or conviction
17 records are but a few of the indicators that Illinois'
18 response to crime is not working.

19 (3) It is in the best interests of all Illinois citizens
20 for the State to reduce the cost of recidivism by moving from
21 this failed approach. It is therefore in the best interests of
22 all Illinois citizens for the State to create a comprehensive,
23 coordinated, and holistic program that:

1 (A) will result in the rehabilitation of defendants in
2 criminal proceedings through reconciliation with their
3 victims and the community at large;

4 (B) addresses the social determinants which
5 precipitated the defendants' commission of the offenses
6 with which they are charged; and

7 (C) places defendants in a position where it is
8 unlikely that they will commit a future criminal offense.

9 (4) The enactment of this Act will accomplish these goals.

10 Section 10. Definitions. As used in this Act:

11 "Eligible defendant" means any defendant in a criminal
12 proceeding pending in any State court in which:

13 (1) the defendant has not previously participated in
14 an alternative prosecution program similar to the Program
15 and which was conducted by any governmental entity in any
16 State or federal territory;

17 (2) the offense which the defendant is alleged in the
18 pending criminal proceeding to have committed was not
19 committed while the defendant was on bond, under the
20 supervision of a court, on conditional discharge or
21 subject to similar conditions;

22 (3) the defendant has not been convicted of committing
23 another criminal offense since the defendant filed or
24 otherwise advised a court of the defendant's request to
25 participate in the Reimagined Justice Program under this

1 Act.

2 "Pretrial navigator" means a pretrial navigator employed
3 by a hub site operator under the Department of Returning
4 Resident Affairs Act.

5 "Program" means the Reimagined Justice Program authorized
6 by this Act.

7 Section 15. Arraignment requirements. Simultaneously with
8 a defendant's arraignment in a criminal proceeding, the clerk
9 of the circuit court in which that proceeding is pending shall
10 provide the defendant with written information about the
11 Reimagined Justice Program. That written information shall
12 include, without limitation, a description of the Program,
13 criteria for eligibility to participate in the Program,
14 Program benefits, requirements, and deadlines, timelines for
15 participation in the Program, and a form pursuant to which the
16 defendant consents to participation in the Program. That
17 consent shall include, without limitation, the defendant's
18 consent to a pretrial navigator's collaboration with the
19 defendant's family, counselors, teachers and law enforcement,
20 the State's Attorney, and such other persons as the pretrial
21 navigator deems necessary to create the proposed Reimagined
22 Justice Program, all as described in this Act. That written
23 information shall also include the following statement printed
24 in 16 point or larger bold type:

25 You have the right to be represented by an attorney

1 throughout your participation in a Reimagined Justice
2 Program. Your participation in a Reimagined Justice
3 Program will require you to waive your right to a
4 preliminary hearing on the criminal offense that has been
5 charged against you. You should consult with an attorney
6 to determine how that waiver will impact you. If you fail
7 to comply with the requirements of the Reimagined Justice
8 Program that has been approved by the court, the court may
9 proceed to a trial of your case.

10 Each clerk of the circuit court shall have copies of such
11 information written in English, Spanish, and Polish and may
12 have copies written in other languages, and shall attempt to
13 provide the defendant with a copy written in a language that
14 the defendant understands.

15 Section 20. Procedure for participation in Reimagined
16 Justice Program. Any eligible defendant may participate in a
17 Reimagined Justice Program under this Act if the eligible
18 defendant files a written consent to participation in that
19 Program with the court in which the eligible defendant's
20 criminal proceeding is pending within 120 days after the
21 eligible defendant's arraignment in that criminal proceeding.
22 The consent shall be filed using a standardized form that the
23 clerk of each circuit court shall make available to eligible
24 defendants without charge. The consent may also be filed in
25 any other form reasonably acceptable to the court in which the

1 eligible defendant's criminal proceeding is pending. The
2 eligible defendant shall serve a copy of the consent upon the
3 State's Attorney who is prosecuting the pending criminal
4 proceeding against the eligible defendant. That State's
5 Attorney shall serve a copy of that consent upon any
6 complaining witnesses in the proceeding. There shall be no
7 charge to or fee required from an eligible defendant for
8 requesting participation or participating in a Reimagined
9 Justice Program.

10 Section 25. Prehearing proceedings.

11 (a) Upon an eligible defendant's filing of a consent to
12 participation in a Reimagined Justice Program, the court shall
13 set a date for a hearing on the eligible defendant's proposed
14 Reimagined Justice Program. The date of that hearing shall be
15 not less than 120 days after the filing of the consent, but the
16 hearing date may be continued for good cause. All other
17 proceedings in the prosecution of the eligible defendant shall
18 be stayed pending the disposition of the hearing on the
19 eligible defendant's proposed Reimagined Justice Program;
20 however, discovery shall continue in accordance with existing
21 rules and the hearing date shall be vacated and the
22 prosecution shall proceed as otherwise required by law if the
23 eligible defendant becomes ineligible to participate in a
24 Reimagined Justice Program prior to the hearing.

25 (b) The clerk of the circuit court for the court in which

1 the eligible defendant's criminal proceeding is pending shall
2 electronically transmit a copy of the eligible defendant's
3 consent to participation in a Reimagined Justice Program to
4 the Department of Returning Resident Affairs within 5 business
5 days after the request is filed. The Department shall
6 electronically transmit a copy of the consent to the hub site
7 operated under the Second Chance State Program that serves the
8 area in which the eligible defendant resides within 48 hours
9 of that Department's receipt of the request. The hub site
10 operator for that hub site shall then assign a pretrial
11 navigator to the eligible defendant and the pretrial navigator
12 shall use best efforts to attempt to contact the eligible
13 defendant within 48 hours after the hub site operator receives
14 the request. The pretrial navigator's failure to make such
15 contact within 48 hours shall not negatively impact an
16 eligible defendant.

17 Section 30. Proposed Reimagined Justice Program.

18 (a) The pretrial navigator assigned to the eligible
19 defendant shall create a written proposed Reimagined Justice
20 Program for the eligible defendant that includes components
21 that will:

22 (1) result in the rehabilitation of the eligible
23 defendant through reconciliation with the eligible
24 defendant's victims and the community at large;

25 (2) address the social determinants that precipitated

1 the eligible defendant's commission of the charged offense
2 at issue in the eligible defendant's pending criminal
3 proceeding; and

4 (3) place the eligible defendant in a position where
5 it is unlikely that the eligible defendant will commit a
6 future criminal offense.

7 The proposed Reimagined Justice Program shall include a
8 completion date, which shall be the date when the eligible
9 defendant shall be considered to have successfully completed
10 the Program and shall thereafter no longer be subject to it if
11 the eligible defendant has complied with its terms and
12 conditions. Those components may, but shall not be required
13 to, include completing educational or job training
14 programming, finding or maintaining employment or safe
15 housing, apologizing and providing restitution to victims,
16 obtaining substance abuse or mental health counseling, and
17 maintaining sobriety. The pretrial navigator shall collaborate
18 with the eligible defendant and the eligible defendant's
19 victims and community members and may collaborate with the
20 eligible defendant's family, counselors, teachers and law
21 enforcement, the State's Attorney, and such other persons as
22 the pretrial navigator deems necessary to create the proposed
23 Reimagined Justice Program.

24 (b) Not less than 30 days before the date set for hearing
25 on the approval of the eligible defendant's Reimagined Justice
26 Program, the pretrial navigator shall cause copies of the

1 proposed Reimagined Justice Agreement to be:

2 (1) filed in the eligible defendant's pending criminal
3 proceeding;

4 (2) served upon the eligible defendant, any
5 complaining witnesses in the criminal proceeding, and the
6 State's Attorney prosecuting the eligible defendant's
7 criminal proceeding; and

8 (3) tendered to the judge who will conduct the hearing
9 on the eligible defendant's proposed Reimagined Justice
10 Program.

11 (c) The State's Attorney prosecuting the eligible
12 defendant's criminal proceeding shall file any response it has
13 to the proposed Reimagined Justice Program within 14 days
14 after service of the proposed Reimagined Justice Program on
15 the State's Attorney. That response shall also include the
16 identities of all witnesses the State's Attorney will call at
17 the hearing on the proposed Reimagined Justice Program, a
18 description of the testimony that each of those witnesses is
19 expected to provide, copies of all statements, reports, or
20 opinions those witnesses have provided to the State's Attorney
21 regarding the proposed Reimagined Justice Program, copies of
22 all other statements, reports, or opinions in the State's
23 Attorney's possession or control regarding the proposed
24 Reimagined Justice Program and copies of all exhibits the
25 State's Attorney will be offering into the record at the
26 hearing on the proposed Reimagined Justice Program. The

1 State's Attorney shall also provide a description of any
2 testimony that any complaining witnesses in the criminal
3 proceeding or the eligible defendant's victims intend to make
4 at the hearing on the proposed Reimagined Justice Program. Any
5 matters the State's Attorney has in opposition to or
6 pertaining to the modification of the proposed Reimagined
7 Justice Program that are not raised in that response shall be
8 waived. The State's Attorney shall be barred from:

9 (1) calling any witnesses who were not disclosed in
10 that response;

11 (2) eliciting testimony from a witness other than
12 testimony that was disclosed for that witness in that
13 response; and

14 (3) seeking the admission of exhibits that were not
15 provided to the eligible defendant as part of that
16 response.

17 Section 35. Hearing on the proposed Reimagined Justice
18 Program.

19 (a) Standards for approval, modification, or rejection of
20 the proposed Reimagined Justice Program and presumptions. The
21 court's determination to approve, modify, or reject the
22 eligible defendant's proposed Reimagined Justice Program shall
23 be solely based upon evidence of what actions are reasonably
24 necessary to:

25 (1) result in the rehabilitation of the eligible

1 defendant through reconciliation with the eligible
2 defendant's victims and the community at large;

3 (2) address the social determinants that precipitated
4 the eligible defendant's commission of the charged offense
5 at issue in the eligible defendant's pending criminal
6 proceeding; and

7 (3) place the eligible defendant in a position in
8 which it is unlikely that the eligible defendant will
9 commit a future criminal offense.

10 Evidence regarding other matters, including, without
11 limitation, punishment or deterrence, shall be irrelevant to
12 the court's determination to approve, modify, or reject the
13 eligible defendant's proposed Reimagined Justice Program. The
14 proposed Reimagined Justice Program filed by the pretrial
15 navigator shall be presumed to meet the standards for
16 approval. The State's Attorney shall have the burden of
17 rebutting that presumption. That presumption shall only be
18 rebutted by clear and convincing evidence to the contrary. The
19 court shall liberally construe the provisions of this Act and
20 the evidence presented to the court in favor of approving the
21 proposed Reimagined Justice Program filed by the pretrial
22 navigator.

23 (b) At the hearing on the proposed Reimagined Justice
24 Program, the court shall hear any relevant testimony that any
25 complaining witnesses in the criminal proceeding or the
26 eligible defendant's victims wish to provide, in addition to

1 relevant testimony and evidence offered by the eligible
2 defendant, pretrial navigator, and witnesses for the eligible
3 defendant and State's Attorney. After the conclusion of the
4 hearing, the court shall enter a written order approving,
5 modifying, or rejecting the proposed Reimagined Justice
6 Program. The order shall also include the court's reasons for
7 approving, modifying, or rejecting the proposed Reimagined
8 Justice Program. Any order approving or modifying the proposed
9 Reimagined Justice Program shall also include, among other
10 provisions:

11 (1) The condition that the order shall only be in full
12 force and effect if, within 14 days after the eligible
13 defendant is served with the order, the eligible defendant
14 files a waiver of the eligible defendant's right to a
15 preliminary hearing in the criminal proceeding pending
16 against the eligible defendant;

17 (2) A completion date, which shall be the date when
18 the eligible defendant shall be considered to have
19 successfully completed the Program and shall thereafter no
20 longer be subject to it if the eligible defendant has
21 complied with its terms and conditions.

22 Section 40. Post-hearing proceedings.

23 (a) Resumption of criminal proceeding. The criminal
24 proceeding against the eligible defendant shall proceed as
25 otherwise provided by law if either of the following occurs:

1 (1) the eligible defendant withdraws the eligible
2 defendant's consent to participate in the Program;

3 (2) the court orders the rejection of the proposed
4 Reimagined Justice Program; or

5 (3) the court enters an order approving or modifying
6 the proposed Reimagined Justice Program and the eligible
7 defendant fails to file a waiver of the eligible
8 defendant's right to a preliminary hearing in the criminal
9 proceeding pending against the eligible defendant within
10 14 days after the eligible defendant is served with that
11 order.

12 (b) Implementation of the Reimagined Justice Program. The
13 Reimagined Justice Program set forth in the court's order
14 shall be in full force and effect upon the eligible
15 defendant's filing of a waiver of the eligible defendant's
16 right to a preliminary hearing in the criminal proceeding
17 pending against the eligible defendant. The eligible defendant
18 shall have the right to withdraw the eligible defendant's
19 consent to participate in the Program at any time before that
20 order is in full force and effect. After the Reimagined
21 Justice Program set forth in the court's order is in full force
22 and effect:

23 (1) The court shall set a schedule for the court to
24 hear a status report from the eligible defendant and the
25 pretrial navigator on the eligible defendant's progress
26 toward compliance with the Reimagined Justice Program,

1 with such hearings occurring no less than every 90 days.
2 At each such hearing, all evidence of the eligible
3 defendant's compliance and noncompliance with the
4 Reimagined Justice Program and the pretrial navigator's
5 efforts to bring the eligible defendant into compliance
6 with the Program when the eligible defendant has been
7 noncompliant. That evidence shall be presented by the
8 pretrial navigator to the court and shall be set forth in
9 detail in a verified written report by the pretrial
10 navigator. The pretrial navigator shall file a copy of
11 that report with the court and shall serve it upon the
12 eligible defendant in open court and upon the State's
13 Attorney;

14 (2) The pretrial navigator shall monitor and use best
15 efforts to assist with the eligible defendant's compliance
16 with the Reimagined Justice Program and bring the eligible
17 defendant into compliance with the Program if the eligible
18 defendant has been noncompliant. The eligible defendant
19 shall be in contact with and provide the pretrial
20 navigator with such information as the pretrial navigator
21 deems reasonably necessary for that purpose.

22 (c) Subsequent conviction. The order setting forth an
23 eligible defendant's Reimagined Justice Program shall be
24 vacated and the criminal proceeding pending against the
25 eligible defendant shall proceed as otherwise provided by law
26 if the eligible defendant is convicted of committing another

1 felony offense after that order is entered.

2 (d) Completion.

3 (1) State's Attorney and pretrial navigator reports on
4 compliance. Not more than 14 days after the completion
5 date provided in the order setting forth the Reimagined
6 Justice Program, the State's Attorney and pretrial
7 navigator shall file their individual written reports with
8 the court in which the eligible defendant's criminal
9 proceeding are pending. Those reports shall state the
10 State's Attorney's and pretrial navigator's opinion on
11 whether the eligible defendant complied with the
12 Reimagined Justice Program set forth in the court's order.
13 Those reports shall also include detailed facts and other
14 relevant information to support those opinions. The
15 State's Attorney and the pretrial navigator shall serve
16 copies of their reports on the eligible defendant.

17 (2) Probable cause hearing. If the reports of the
18 State's Attorney or the pretrial navigator required under
19 paragraph (1) state that the eligible defendant failed to
20 comply with the order setting forth the Reimagined Justice
21 Program, the eligible defendant shall have 30 days after
22 the eligible defendant's receipt of those reports to file
23 a response to them. The court shall consider the reports,
24 the eligible defendant's response, and any oral arguments
25 it deems necessary to hear to determine whether there is
26 probable cause to believe that the eligible defendant

1 failed to comply with the order setting forth the
2 Reimagined Justice Program.

3 (3) Compliance hearing.

4 (A) The court shall schedule an evidentiary
5 hearing on the issue of the eligible defendant's
6 compliance with the order setting forth the Reimagined
7 Justice Program if the court determines that there is
8 probable cause to believe that the eligible defendant
9 failed to comply with the order setting forth the
10 Reimagined Justice Program. That hearing shall not be
11 convened for at least 30 days after the eligible
12 defendant receives notice of the court's probable
13 cause determination. The hearing may be continued for
14 good cause.

15 (B) Not less than 14 days before the evidentiary
16 hearing described in subparagraph (A):

17 (i) the pretrial navigator shall provide the
18 eligible defendant with a description of the
19 testimony the pretrial navigator expects to
20 provide at that hearing and copies of all files
21 and other documents in the pretrial navigator's
22 possession or control that pertain to the eligible
23 defendant; and

24 (ii) the State's Attorney shall provide the
25 eligible defendant with the identities of all
26 witnesses the State's Attorney will call at that

1 hearing, a description of the testimony that each
2 of those witnesses is expected to provide, copies
3 of all statements, reports, or opinions those
4 witnesses have provided to the State's Attorney
5 regarding the matters at issue in that hearing,
6 copies of all other statements, reports, or
7 opinions in the State's Attorney's possession or
8 control regarding the matters at issue in that
9 hearing, and copies of all exhibits the State's
10 Attorney will be offering into the record at that
11 hearing.

12 (C) The pretrial navigator shall be barred from
13 testifying about any matters that have not been
14 disclosed to the eligible defendant under item (i) of
15 subparagraph (B). The State's Attorney shall be barred
16 from:

17 (i) calling any witnesses who were not
18 disclosed to the eligible defendant pursuant to
19 item (ii) of subparagraph (B);

20 (ii) eliciting testimony from a witness other
21 than testimony that was disclosed for that witness
22 under item (ii) of subparagraph (B); and

23 (iii) seeking the admission of exhibits that
24 were not provided to the eligible defendant under
25 item (ii) of subparagraph (B).

26 (D) The State's Attorney or pretrial navigator who

1 alleged that the eligible defendant has failed to
2 comply with the order setting forth the Reimagined
3 Justice Program has the burden of proving that the
4 eligible defendant so failed to comply. That burden
5 shall only be satisfied with the admission of clear
6 and convincing evidence.

7 (E) The court shall consider the relevant
8 testimony and other evidence admitted during the
9 hearing to determine whether the eligible defendant
10 complied with the Reimagined Justice Program set forth
11 in the court's order. If the court determines that
12 clear and convincing evidence demonstrates that the
13 eligible defendant failed to comply with the
14 Reimagined Justice Program, the eligible defendant's
15 criminal proceeding shall proceed in accordance with
16 applicable law. The eligible defendant's participation
17 in and failure to comply with the Reimagined Justice
18 Program shall not otherwise be considered by the court
19 or presented to any jury in the criminal proceeding
20 against the eligible defendant.

21 (4) Post-compliance. If either: (i) the State's
22 Attorney and pretrial navigator report that the eligible
23 defendant has complied with the Reimagined Justice Program
24 set forth in the court's order; or (ii) the court
25 determined under paragraph (d)(2) that there is not
26 probable cause to believe that the eligible defendant

1 failed to comply with the order setting forth the
2 Reimagined Justice Program; or (iii) the court determines
3 that clear and convincing evidence of the eligible
4 defendant's failure to comply with that order was not
5 presented at the hearing described in paragraph (3), then:

6 (A) the criminal proceeding pending against the
7 eligible defendant shall be dismissed nunc pro tunc to
8 the earlier of the date the complaint, information, or
9 indictment in that proceeding was filed; and

10 (B) all records pertaining to the proceeding shall
11 be expunged in accordance with the Criminal
12 Identification Act within 60 days thereafter without
13 need for further action by the eligible defendant or
14 the court, including, without limitation, arrest
15 records, law enforcement records (including, without
16 limitation, records of the arresting agency and the
17 Illinois State Police), investigatory records, the
18 State's Attorney's records, records maintained by the
19 clerk of the circuit court that indicate the existence
20 of the proceeding, and all filings in the criminal
21 proceeding that were pending against the eligible
22 defendant.

23 Section 45. Reporting. The Department of Returning
24 Resident Affairs shall annually report on the efficacy of the
25 Program to the Governor and General Assembly and make that

1 report available on its website. That report shall include,
2 without limitation, data showing the following for the
3 reporting period:

4 (1) Number of eligible defendants who: (A) requested
5 participation in the Program; (B) were denied
6 participation in the Program due to ineligibility; (C) had
7 a proposed Reimagined Justice Program granted; (D) had a
8 proposed Reimagined Justice Program modified; (E) had a
9 proposed Reimagined Justice Program rejected; (F) entered
10 guilty pleas pursuant to the Program; (G) failed to enter
11 guilty pleas pursuant to the Program; (H) successfully
12 completed the Program; (I) failed to successfully complete
13 the Program; and (J) recidivated after successfully
14 completing the Program.

15 (2) (A) Criminal offenses for which eligible defendants
16 have been charged; (B) the number of Program participants
17 at each hub site; (C) basic components of proposed and
18 final Reimagined Justice Programs; (D) the nature of
19 modifications to proposed Reimagined Justice Programs; and
20 (E) the operating costs of the Program.

21 Pretrial navigators and the Illinois Department of
22 Corrections shall provide the Department of Returning Resident
23 Affairs with such information as is necessary for the
24 Department of Returning Resident Affairs to compile these
25 reports.

1 Section 50. Provisions of Act mandatory. Subject only to
2 appropriation, the provisions of this Act are mandatory and
3 shall not be considered to be directory or discretionary.

4 Section 905. The Criminal Identification Act is amended by
5 changing Section 5.2 as follows:

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

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

- 1 ~~(vi)~~ Imprisonment, Section 5-1-10. ~~(730 ILCS~~
2 ~~5/5-1-10)~~,
- 3 ~~(vii)~~ Judgment, Section 5-1-12. ~~(730 ILCS~~
4 ~~5/5-1-12)~~,
- 5 ~~(viii)~~ Misdemeanor, Section 5-1-14. ~~(730 ILCS~~
6 ~~5/5-1-14)~~,
- 7 ~~(ix)~~ Offense, Section 5-1-15. ~~(730 ILCS~~
8 ~~5/5-1-15)~~,
- 9 ~~(x)~~ Parole, Section 5-1-16. ~~(730 ILCS~~
10 ~~5/5-1-16)~~,
- 11 ~~(xi)~~ Petty Offense, Section 5-1-17. ~~(730 ILCS~~
12 ~~5/5-1-17)~~,
- 13 ~~(xii)~~ Probation, Section 5-1-18. ~~(730 ILCS~~
14 ~~5/5-1-18)~~,
- 15 ~~(xiii)~~ Sentence, Section 5-1-19. ~~(730 ILCS~~
16 ~~5/5-1-19)~~,
- 17 ~~(xiv)~~ Supervision, Section 5-1-21. ~~(730 ILCS~~
18 ~~5/5-1-21)~~, and
- 19 ~~(xv)~~ Victim, Section 5-1-22. ~~(730 ILCS~~
20 ~~5/5-1-22).~~

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

26 (C) "Conviction" means a judgment of conviction or

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

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

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

1 charges, or both, ordered expunged shall be impounded
2 as required by subsections (d)(9)(A)(ii) and
3 (d)(9)(B)(ii).

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

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

22 (G-5) "Minor Cannabis Offense" means a violation
23 of Section 4 or 5 of the Cannabis Control Act
24 concerning not more than 30 grams of any substance
25 containing cannabis, provided the violation did not
26 include a penalty enhancement under Section 7 of the

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

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

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

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

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

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

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

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

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

5 (2.5) Commencing 180 days after July 29, 2016 (the
6 effective date of Public Act 99-697), the law enforcement
7 agency issuing the citation shall automatically expunge,
8 on or before January 1 and July 1 of each year, the law
9 enforcement records of a person found to have committed a
10 civil law violation of subsection (a) of Section 4 of the
11 Cannabis Control Act or subsection (c) of Section 3.5 of
12 the Drug Paraphernalia Control Act in the law enforcement
13 agency's possession or control and which contains the
14 final satisfactory disposition which pertain to the person
15 issued a citation for that offense. The law enforcement
16 agency shall provide by rule the process for access,
17 review, and to confirm the automatic expungement by the
18 law enforcement agency issuing the citation. Commencing
19 180 days after July 29, 2016 (the effective date of Public
20 Act 99-697), the clerk of the circuit court shall expunge,
21 upon order of the court, or in the absence of a court order
22 on or before January 1 and July 1 of each year, the court
23 records of a person found in the circuit court to have
24 committed a civil law violation of subsection (a) of
25 Section 4 of the Cannabis Control Act or subsection (c) of
26 Section 3.5 of the Drug Paraphernalia Control Act in the

1 clerk's possession or control and which contains the final
2 satisfactory disposition which pertain to the person
3 issued a citation for any of those offenses.

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

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

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

26 (C) the sealing of the records of arrests or

1 charges not initiated by arrest which result in an
2 order of supervision or a conviction for the following
3 offenses:

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

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

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

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

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

26 (D) (blank).

1 (b) Expungement.

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

15 (1.5) When a petitioner seeks to have a record of
16 arrest expunged under this Section, and the offender has
17 been convicted of a criminal offense, the State's Attorney
18 may object to the expungement on the grounds that the
19 records contain specific relevant information aside from
20 the mere fact of the arrest.

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

22 (A) When the arrest or charge not initiated by
23 arrest sought to be expunged resulted in an acquittal,
24 dismissal, the petitioner's release without charging,
25 or the reversal or vacation of a conviction, there is
26 no waiting period to petition for the expungement of

1 such records.

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

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

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

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

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

12 (D) Immediate expungement.

13 (i) Applicability. Notwithstanding any other
14 provision of law and cumulative with any rights to
15 expungement or sealing of criminal records, this
16 subparagraph (D) authorizes immediate expungement
17 of arrests or charges not initiated by arrest
18 resulting in an acquittal, dismissal, the
19 petitioner's release without charging, or the
20 reversal or vacation of a conviction.

21 (ii) When records are eligible to be
22 immediately expunged. Records eligible to be
23 expunged under subdivision (i) of this
24 subparagraph (D) may be expunged immediately after
25 entry of the final disposition of a case.

26 (iii) Procedure.

1 (aa) Filing the petition. A petition for
2 the immediate expungement of records under
3 subdivision (i) of this subparagraph (D) may
4 be filed with the circuit court clerk during
5 the hearing in which the final disposition of
6 the case is entered and heard instanter. The
7 defendant may also file a petition for
8 immediate expungement and set the petition for
9 hearing on the date in which the final
10 disposition of the case is anticipated. The
11 defendant may also file a petition for
12 expungement at any other time after the final
13 disposition of the case.

14 (bb) Contents of the petition. The
15 petition for the immediate expungement of
16 records under subdivision (i) of this
17 subparagraph (D) shall be verified and shall
18 contain the petitioner's name, date of birth,
19 current address, and, for each eligible
20 record, the case number, the date of the
21 arrest if applicable, the identity of the
22 arresting authority if applicable, and other
23 information the court may require.

24 (cc) Service of petition. A copy of the
25 petition for the immediate expungement of
26 records under subdivision (i) of this

1 subparagraph (D) shall be served on the
2 State's Attorney in open court. The petitioner
3 shall not be required to serve a copy of the
4 petition on any other agency.

5 (dd) Hearing and entry of order. The
6 presiding trial judge shall enter an order
7 granting or denying the petition for the
8 immediate expungement of records under
9 subdivision (i) of this subparagraph (D)
10 during any hearing in which that petition is
11 filed, including, without limitation, the
12 hearing in which the final disposition of the
13 case is entered. A petition for the immediate
14 expungement of records under subdivision (i)
15 of this subparagraph (D) that was filed at a
16 time other than during a hearing shall be set
17 for hearing by the presiding trial judge and
18 the presiding trial judge shall enter an order
19 granting or denying that petition at that
20 hearing.

21 (ee) Service of order. An order to
22 immediately expunge eligible records under
23 this subparagraph (D) shall be served in
24 accordance with paragraph (8) of subsection
25 (d).

26 (ff) Implementation of order. An order to

1 immediately expunge records under this
2 subparagraph (D) shall be implemented in
3 accordance with subparagraph (A) of paragraph
4 (8) of subsection (d).

5 (gg) Final order. No court order entered
6 under this subparagraph (D) becomes final for
7 purposes of appeal until 30 days after service
8 of the order on the petitioner and all parties
9 entitled to service of the order.

10 (hh) Motion to vacate, modify, or
11 reconsider. Under Section 2-1203 of the Code
12 of Civil Procedure, the petitioner, the
13 State's Attorney, or the Illinois State Police
14 may file a motion to vacate, modify, or
15 reconsider an order denying a petition to
16 immediately expunge within 30 days of service
17 of the order. If filed more than 30 days after
18 service of the order, a petition to vacate,
19 modify, or reconsider shall comply with
20 Section 2-1401 of the Code of Civil Procedure.

21 (ii) Effect of order. An order granting an
22 immediate expungement petition under this
23 subparagraph (D) shall not be considered void
24 because it fails to comply with the provisions
25 of this subparagraph (D). The circuit court
26 retains jurisdiction to determine whether the

1 order is voidable, and to vacate, modify, or
2 reconsider its terms based on a motion filed
3 under paragraph (12) of subsection (d).

4 (jj) Compliance with order granting
5 petition to expunge records. Unless a court
6 has entered a stay of an order granting a
7 petition to immediately expunge under this
8 subparagraph (D), all parties entitled to
9 service of the order must fully comply with
10 the terms of the order within 60 days of
11 service of the order.

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

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

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

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

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

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

17 (7) Nothing in this Section shall prevent the Illinois
18 ~~Department of~~ State Police from maintaining all records of
19 any person who is admitted to probation upon terms and
20 conditions and who fulfills those terms and conditions
21 pursuant to Section 10 of the Cannabis Control Act,
22 Section 410 of the Illinois Controlled Substances Act,
23 Section 70 of the Methamphetamine Control and Community
24 Protection Act, Section 5-6-3.3 or 5-6-3.4 of the Unified
25 Code of Corrections, Section 12-4.3 or subdivision (b)(1)
26 of Section 12-3.05 of the Criminal Code of 1961 or the

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

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

12 (c) Sealing.

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

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

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

23 (B) Arrests or charges not initiated by arrest
24 resulting in acquittal, dismissal, or conviction when
25 the conviction was reversed or vacated, except as
26 excluded by subsection (a) (3) (B);

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (d) Procedure. The following procedures apply to
25 expungement under subsections (b), (e), and (e-6) and sealing
26 under subsections (c) and (e-5):

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

13 (1.5) County fee waiver pilot program. From August 9,
14 2019 (the effective date of Public Act 101-306) through
15 December 31, 2020, in a county of 3,000,000 or more
16 inhabitants, no fee shall be required to be paid by a
17 petitioner if the records sought to be expunged or sealed
18 were arrests resulting in release without charging or
19 arrests or charges not initiated by arrest resulting in
20 acquittal, dismissal, or conviction when the conviction
21 was reversed or vacated, unless excluded by subsection
22 (a) (3) (B). The provisions of this paragraph (1.5), other
23 than this sentence, are inoperative on and after January
24 1, 2022.

25 (2) Contents of petition. The petition shall be
26 verified and shall contain the petitioner's name, date of

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

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

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

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

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

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

3 (4) Service of petition. The circuit court clerk shall
4 promptly serve a copy of the petition and documentation to
5 support the petition under subsection (e-5) or (e-6) on
6 the State's Attorney or prosecutor charged with the duty
7 of prosecuting the offense, the Illinois ~~Department of~~
8 State Police, the arresting agency and the chief legal
9 officer of the unit of local government effecting the
10 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 Illinois Department of State Police, the arresting
7 agency, or the chief legal officer files an objection
8 to the petition to expunge or seal within 60 days from
9 the date of service of the petition, the court shall
10 enter 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 Illinois State Police ~~Department~~ as to the
8 appropriateness of the relief sought in the petition to
9 expunge or seal. At the hearing, the court shall hear
10 evidence on whether the petition should or should not be
11 granted, and shall grant or deny the petition to expunge
12 or seal the records based on the evidence presented at the
13 hearing. The court may consider 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 Illinois State Police ~~Department~~, in a
3 form and manner prescribed by the Illinois State Police
4 ~~Department~~, to the petitioner, to the State's Attorney or
5 prosecutor charged with the duty of prosecuting the
6 offense, to the arresting agency, to the chief legal
7 officer of the unit of local government effecting the
8 arrest, and to such other criminal justice agencies as may
9 be ordered by the court.

10 (9) Implementation of order.

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

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

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

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

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

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

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

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

1 circuit court clerk before the entry of the order;

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

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

17 (v) in response to an inquiry for such records
18 from anyone not authorized by law to access such
19 records, the court, the Illinois State Police
20 ~~Department~~, or the agency receiving such inquiry
21 shall reply as it does in response to inquiries
22 when no records ever existed.

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

25 (i) the records shall be expunged (as defined
26 in subsection (a)(1)(E)) by the arresting agency

1 and any other agency as ordered by the court,
2 within 60 days of the date of service of the order,
3 unless a motion to vacate, modify, or reconsider
4 the order is filed under paragraph (12) of
5 subsection (d) of this Section;

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

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

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

1 Department of Corrections upon conviction for any
2 offense; and

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

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

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

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

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

24 (F) Notwithstanding any other provision of this
25 Section, a circuit court clerk may access a sealed
26 record for the limited purpose of collecting payment

1 for any legal financial obligations that were
2 established, imposed, or originated in the criminal
3 proceedings for which those records have been sealed.

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

24 (11) Final Order. No court order issued under the
25 expungement or sealing provisions of this Section shall
26 become final for purposes of appeal until 30 days after

1 service of the order on the petitioner and all parties
2 entitled to notice of the petition.

3 (12) Motion to Vacate, Modify, or Reconsider. Under
4 Section 2-1203 of the Code of Civil Procedure, the
5 petitioner or any party entitled to notice may file a
6 motion to vacate, modify, or reconsider the order granting
7 or denying the petition to expunge or seal within 30 ~~60~~
8 days of service of the order. If filed more than 30 ~~60~~
9 after service of the order, a petition to vacate, modify,
10 or reconsider shall comply with subsection (c) of Section
11 2-1401 of the Code of Civil Procedure. Upon filing of a
12 motion to vacate, modify, or reconsider, notice of the
13 motion shall be served upon the petitioner and all parties
14 entitled to notice of the petition.

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

24 (14) Compliance with Order Granting Petition to Seal
25 Records. Unless a court has entered a stay of an order
26 granting a petition to seal, all parties entitled to

1 notice of the petition must fully comply with the terms of
2 the order within 60 days of service of the order even if a
3 party is seeking relief from the order through a motion
4 filed under paragraph (12) of this subsection (d) or is
5 appealing the order.

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

16 (16) The changes to this subsection (d) made by Public
17 Act 98-163 apply to all petitions pending on August 5,
18 2013 (the effective date of Public Act 98-163) and to all
19 orders ruling on a petition to expunge or seal on or after
20 August 5, 2013 (the effective date of Public Act 98-163).

21 (e) Whenever a person who has been convicted of an offense
22 is granted a pardon by the Governor which specifically
23 authorizes expungement, he or she may, upon verified petition
24 to the Chief Judge of the circuit where the person had been
25 convicted, any judge of the circuit designated by the Chief
26 Judge, or in counties of less than 3,000,000 inhabitants, the

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

24 (e-5) Whenever a person who has been convicted of an
25 offense is granted a certificate of eligibility for sealing by
26 the Prisoner Review Board which specifically authorizes

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

1 a copy of the order to the person who was granted the
2 certificate of eligibility for sealing.

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

1 or for the purpose of sentencing for any subsequent felony.
2 Upon conviction for any subsequent offense, the Department of
3 Corrections shall have access to all expunged records of the
4 Illinois State Police ~~Department~~ pertaining to that
5 individual. Upon entry of the order of expungement, the
6 circuit court clerk shall promptly mail a copy of the order to
7 the person who was granted the certificate of eligibility for
8 expungement.

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

21 (g) Immediate Sealing.

22 (1) Applicability. Notwithstanding any other provision
23 of this Act to the contrary, and cumulative with any
24 rights to expungement or sealing of criminal records, this
25 subsection authorizes the immediate sealing of criminal
26 records of adults and of minors prosecuted as adults.

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

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

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

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

22 (A) Filing the Petition. Upon entry of the final
23 disposition of the case, the defendant's attorney may
24 immediately petition the court, on behalf of the
25 defendant, for immediate sealing of eligible records
26 under paragraph (2) of this subsection (g) that are

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

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

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

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

23 (E) Entry of Order. The presiding trial judge
24 shall enter an order granting or denying the petition
25 for immediate sealing during the hearing in which it
26 is filed. Petitions for immediate sealing shall be

1 ruled on in the same hearing in which the final
2 disposition of the case is entered.

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

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

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

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

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

21 (K) Motion to Vacate, Modify, or Reconsider. Under
22 Section 2-1203 of the Code of Civil Procedure, the
23 petitioner, State's Attorney, or the Illinois
24 ~~Department of~~ State Police may file a motion to
25 vacate, modify, or reconsider the order denying the
26 petition to immediately seal within 30 ~~60~~ days of

1 service of the order. If filed more than 30 ~~60~~ days
2 after service of the order, a petition to vacate,
3 modify, or reconsider shall comply with subsection (c)
4 of Section 2-1401 of the Code of Civil Procedure.

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

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

20 (h) Sealing; trafficking victims.

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

1 trafficking under Section 10-9 of the Criminal Code of
2 2012 or a severe form of trafficking under the federal
3 Trafficking Victims Protection Act.

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

14 (3) If an objection is filed alleging that the
15 petitioner is not entitled to immediate sealing under this
16 subsection (h), the court shall conduct a hearing under
17 paragraph (7) of subsection (d) of this Section and the
18 court shall determine whether the petitioner is entitled
19 to immediate sealing under this subsection (h). A
20 petitioner is eligible for immediate relief under this
21 subsection (h) if he or she shows, by a preponderance of
22 the evidence, that: (A) he or she was a victim of human
23 trafficking at the time of the offense; and (B) that his or
24 her participation in the offense was a direct result of
25 human trafficking under Section 10-9 of the Criminal Code
26 of 2012 or a severe form of trafficking under the federal

1 Trafficking Victims Protection Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (A) Upon June 25, 2019 (the effective date of

1 Public Act 101-27), the Department of State Police
2 shall review all criminal history record information
3 and identify all records that meet all of the
4 following criteria:

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

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

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

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

20 (i) The Prisoner Review Board shall notify the
21 State's Attorney of the county of conviction of
22 each record identified by State Police in
23 paragraph (2) (A) that is classified as a Class 4
24 felony. The State's Attorney may provide a written
25 objection to the Prisoner Review Board on the sole
26 basis that the record identified does not meet the

1 criteria established in paragraph (2) (A). Such an
2 objection must be filed within 60 days or by such
3 later date set by the Prisoner Review Board in the
4 notice after the State's Attorney received notice
5 from the Prisoner Review Board.

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

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

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

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

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

26 (3) Any individual may file a motion to vacate and

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

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

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

1 court clerk shall promptly provide a copy of the order and
2 a certificate of disposition to the individual whose
3 records will be expunged to the individual's last known
4 address or by electronic means (if available) or otherwise
5 make available to the individual upon request. If a motion
6 to 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.

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

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

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

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

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

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

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

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

4 (j) Felony Prostitution Convictions.

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

13 (A) the reasons to retain the records provided by
14 law enforcement;

15 (B) the petitioner's age;

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

17 and

18 (D) the time since the conviction, and the
19 specific adverse consequences if denied. An individual
20 may file the petition after the completion of any
21 sentence or condition imposed by the conviction.
22 Within 60 days of the filing of the motion, a State's
23 Attorney may file an objection to the petition along
24 with supporting evidence. If a motion to vacate and
25 expunge is granted, the records shall be expunged in
26 accordance with subparagraph (d)(9)(A) of this

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

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

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

19 (B) the petitioner's age;

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

21 (D) the time since the conviction; and

22 (E) the specific adverse consequences if denied.

23 If the State's Attorney files a motion to vacate and
24 expunge records for felony prostitution convictions
25 pursuant to this Section, the State's Attorney shall
26 notify the Prisoner Review Board within 30 days of the

1 filing. If a motion to vacate and expunge is granted, the
2 records shall be expunged in accordance with subparagraph
3 (d) (9) (A) of this Section.

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

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

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

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

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

24 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
25 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
26 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;

1 102-558, 8-20-21; 102-639, eff. 8-27-21; revised 10-5-21.)

2 Section 910. The Unified Code of Corrections is amended by
3 changing Sections 5-9-1 and 5-9-2 as follows:

4 (730 ILCS 5/5-9-1) (from Ch. 38, par. 1005-9-1)

5 Sec. 5-9-1. Authorized fines.

6 (a) An offender may be sentenced to pay a fine as provided
7 in Article 4.5 of Chapter V.

8 (b) (Blank).

9 (c) (Blank).

10 (c-5) (Blank).

11 (c-7) (Blank).

12 (c-9) (Blank).

13 (d) In determining the amount and method of payment of a
14 fine or restitution, except for those fines established for
15 violations of Chapter 15 of the Illinois Vehicle Code, the
16 court shall consider:

17 (1) the financial resources and current and future
18 ability of the offender to reasonably pay the fine or
19 restitution; and

20 (2) whether the fine will prevent the offender from
21 making court ordered restitution or reparation to the
22 victim of the offense; and

23 (2.1) the impact that payment of the fine or
24 restitution will have on the offender's current and future

1 ability to:

2 (A) obtain or maintain decent and stable housing
3 for the offender, the offender's family, and all
4 others who are dependent upon the offender for stable
5 housing;

6 (B) obtain stable and financially meaningful
7 employment; and

8 (C) obtain any education or training that is or
9 may become reasonably necessary for the offender to
10 support the offender, the offender's family, or others
11 who are financially dependent upon the offender or
12 otherwise dependent upon the offender's care; and

13 (2.2) the impact of the fine or restitution on the
14 offender's family or others who are financially dependent
15 upon the offender or otherwise dependent upon the
16 offender's care; and

17 (2.3) the likelihood that the fine or restitution may
18 cause the offender to recidivate; and

19 (3) in a case where the accused is a dissolved
20 corporation and the court has appointed counsel to
21 represent the corporation, the costs incurred either by
22 the county or the State for such representation.

23 (e) The court may order the fine to be paid forthwith or
24 within a specified period of time or in installments.
25 Notwithstanding any other provision of law:

26 (1) the amount to be collected from an offender for

1 payment of a fine or restitution shall never exceed the
2 amount that could be collected from that offender pursuant
3 to a deduction order entered under Part 8 of Article XII of
4 the Code of Civil Procedure; and

5 (2) no payment of the whole or any part or any fine or
6 restitution or any installment thereof shall be due,
7 otherwise required, or collected while the individual who
8 is liable for that payment is incarcerated.

9 (f) (Blank).

10 (Source: P.A. 99-352, eff. 1-1-16; 100-987, eff. 7-1-19.)

11 (730 ILCS 5/5-9-2) (from Ch. 38, par. 1005-9-2)

12 Sec. 5-9-2. Revocation of a fine or restitution ~~Fine~~.
13 Except as to fines established for violations of Chapter 15 of
14 the Illinois Vehicle Code, the court, upon good cause shown,
15 may revoke all or any portion of any fine or restitution
16 imposed upon an individual, or the unpaid portion of any such
17 fine or restitution, or may modify the method of payment. Any
18 individual who is liable for the payment of a fine or
19 restitution may petition the court that imposed the fine or
20 restitution for relief under this Section at any time. The
21 second and all succeeding petitions for such relief by such an
22 individual shall include evidence of a material change in the
23 individual's circumstances. The court's determination to grant
24 relief under this Section shall be based upon the impact of any
25 fine or restitution on:

1 (1) the petitioner's current and anticipated future
2 ability to:

3 (A) reasonably pay such fine or restitution;

4 (B) obtain or maintain stable housing for the
5 petitioner, the petitioner's family, and all others
6 who are dependent upon the petitioner for stable
7 housing;

8 (C) obtain stable and financially meaningful
9 employment; and

10 (D) obtain any education or training that is or
11 may become reasonably necessary for the petitioner to
12 support the petitioner, the petitioner's family, or
13 others who are financially dependent upon the
14 petitioner or otherwise dependent upon the
15 petitioner's care;

16 (2) the impact of the fine or restitution on the
17 petitioner's family or others who are financially
18 dependent upon the petitioner or otherwise dependent upon
19 the petitioner's care; and

20 (3) the likelihood that the fine or restitution may
21 cause the petitioner to recidivate.

22 The provisions of this Section shall be liberally
23 construed in favor of granting the relief authorized by this
24 Section. This Section shall not be construed to authorize a
25 court to increase the amount due from an individual upon whom a
26 fine or restitution has been imposed or the amount of any

1 installments or other payments of such fine or restitution ~~the~~
2 ~~fine or the unpaid portion or may modify the method of payment.~~

3 (Source: P.A. 87-396.)

4 (730 ILCS 5/5-9-3 rep.)

5 Section 915. The Unified Code of Corrections is amended by
6 repealing Section 5-9-3.

7 Section 997. Severability. The provisions of this Act are
8 severable under Section 1.31 of the Statute on Statutes.

9 Section 999. Effective date. This Section and Sections 905
10 through 997 take effect upon becoming law. Sections 1 through
11 45 take effect upon becoming law, but Sections 1 through 45 do
12 not take effect at all unless "An Act creating the Department
13 of Returning Resident Affairs" of the 102nd General Assembly
14 becomes law.