



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5308

Introduced 1/31/2022, by Rep. Cyril Nichols

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2
110 ILCS 805/3-17.5 new

Amends the Criminal Identification Act. Provides for expungement of minor cannabis offenses (as that term is defined in the Act) after receipt of a certified copy of a diploma issued by an Illinois community college by a law enforcement agency that issued a citation relating to a minor cannabis offense from a person who was convicted of the minor cannabis offense. Amends the Public Community College Act. Provides that a currently enrolled student at a community college who has provided the community college with documentation evidencing that the person was convicted of a minor cannabis offense that has not been expunged shall receive from the community college the following, as needed by the student: (1) a housing stipend of up to \$1,000 per month; (2) health insurance that includes mental health care; and (3) prepaid access to local transit systems for transportation to and from the community college. Provides that the Board of Higher Education shall develop an application process for an applicant to a community college or a currently enrolled student to request such assistance.

LRB102 23280 CMG 32445 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 5. The Criminal Identification Act is amended by
 5 changing Section 5.2 as follows:

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

12 (A) The following terms shall have the meanings
 13 ascribed to them in the 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),~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 outstanding financial legal obligation.

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

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

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

5 (2.7) No later than 30 days after receipt of a
6 certified copy of a diploma issued by an Illinois
7 community college by a law enforcement agency that issued
8 a citation relating to a minor cannabis offense from a
9 person who was convicted of the minor cannabis offense,
10 the law enforcement agency shall expunge the records of
11 the person found to have committed such violation in the
12 law enforcement agency's possession or control and which
13 contains the final satisfactory disposition which pertain
14 to the person issued a citation for that offense. After
15 the expungement is complete, the law enforcement agency
16 shall notify the clerk of the circuit court, where the
17 criminal file relating to the person's conviction is kept,
18 that the expungement is complete. Each law enforcement
19 agency shall provide by rule the process for access,
20 review, and to confirm the expungement by the law
21 enforcement agency issuing the citation.

22 After receipt of a confirmation from a law enforcement
23 agency that expunged the records of a person under this
24 paragraph, the clerk of the circuit court shall expunge,
25 upon order of the court, or in the absence of a court order
26 on or before January 1 and July 1 of each year, the court

1 records of a person related to the law enforcement file
2 that the law enforcement agency expunged under this
3 paragraph in the clerk's possession or control and which
4 contains the final satisfactory disposition which pertain
5 to the person issued a citation for any of those offenses.

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

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

24 (B) the sealing or expungement of records of minor
25 traffic offenses (as defined in subsection (a) (1) (G)),
26 unless the petitioner was arrested and released

1 without charging.

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

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

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

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

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

25 (v) any offense or attempted offense that
26 would subject a person to registration under the

1 Sex Offender Registration Act.

2 (D) (blank).

3 (b) Expungement.

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

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

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

24 (A) When the arrest or charge not initiated by
25 arrest sought to be expunged resulted in an acquittal,
26 dismissal, the petitioner's release without charging,

1 or the reversal or vacation of a conviction, there is
2 no waiting period to petition for the expungement of
3 such records.

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

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

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

1 shall not be eligible for expungement until the
2 petitioner has reached the age of 25 years.

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

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

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

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

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

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

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

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

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

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

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

14 (c) Sealing.

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

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

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

25 (B) Arrests or charges not initiated by arrest
26 resulting in acquittal, dismissal, or conviction when

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

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

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

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

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

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

26 (A) Records identified as eligible under

1 subsection (c) (2) (A) and (c) (2) (B) may be sealed at
2 any time.

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

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

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

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

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

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

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

26 (d) Procedure. The following procedures apply to

1 expungement under subsections (b), (e), and (e-6) and sealing
2 under subsections (c) and (e-5):

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

15 (1.5) County fee waiver pilot program. From August 9,
16 2019 (the effective date of Public Act 101-306) through
17 December 31, 2020, in a county of 3,000,000 or more
18 inhabitants, no fee shall be required to be paid by a
19 petitioner if the records sought to be expunged or sealed
20 were arrests resulting in release without charging or
21 arrests or charges not initiated by arrest resulting in
22 acquittal, dismissal, or conviction when the conviction
23 was reversed or vacated, unless excluded by subsection
24 (a)(3)(B). The provisions of this paragraph (1.5), other
25 than this sentence, are inoperative on and after January
26 1, 2022.

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

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

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

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

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

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

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

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

13 (5) Objections.

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

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

25 (6) Entry of order.

26 (A) The Chief Judge of the circuit wherein the

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

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

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

1 eliminates or affects the right of the holder of any
2 financial obligation to pursue collection under
3 applicable federal, State, or local law.

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

16 (A) the strength of the evidence supporting the
17 defendant's conviction;

18 (B) the reasons for retention of the conviction
19 records by the State;

20 (C) the petitioner's age, criminal record history,
21 and employment history;

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

25 (E) the specific adverse consequences the
26 petitioner may be subject to if the petition is

1 denied.

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

12 (9) Implementation of order.

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

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

24 (ii) the records of the circuit court clerk
25 shall be impounded until further order of the
26 court upon good cause shown and the name of the

1 petitioner obliterated on the official index
2 required to be kept by the circuit court clerk
3 under Section 16 of the Clerks of Courts Act, but
4 the order shall not affect any index issued by the
5 circuit court clerk before the entry of the order;
6 and

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

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

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

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

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

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

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

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

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

22 (iv) records impounded by the Illinois State
23 Police Department may be disseminated by the
24 Illinois State Police Department only as required
25 by law or to the arresting authority, the State's
26 Attorney, and the court upon a later arrest for

1 the same or a similar offense or for the purpose of
2 sentencing for any subsequent felony, and to the
3 Department of Corrections upon conviction for any
4 offense; and

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

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

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

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

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

26 (F) Notwithstanding any other provision of this

1 Section, a circuit court clerk may access a sealed
2 record for the limited purpose of collecting payment
3 for any legal financial obligations that were
4 established, imposed, or originated in the criminal
5 proceedings for which those records have been sealed.

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

26 (11) Final Order. No court order issued under the

1 expungement or sealing provisions of this Section shall
2 become final for purposes of appeal until 30 days after
3 service of the order on the petitioner and all parties
4 entitled to notice of the petition.

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

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

26 (14) Compliance with Order Granting Petition to Seal

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

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

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

23 (e) Whenever a person who has been convicted of an offense
24 is granted a pardon by the Governor which specifically
25 authorizes expungement, he or she may, upon verified petition
26 to the Chief Judge of the circuit where the person had been

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

26 (e-5) Whenever a person who has been convicted of an

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

1 ~~Department~~ pertaining to that individual. Upon entry of the
2 order of sealing, the circuit court clerk shall promptly mail
3 a copy of the order to the person who was granted the
4 certificate of eligibility for sealing.

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

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

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

23 (g) Immediate Sealing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (h) Sealing; trafficking victims.

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

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

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

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

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

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

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

8 (A) The Illinois ~~Department of~~ State Police and
9 all law enforcement agencies within the State shall
10 automatically expunge all criminal history records of
11 an arrest, charge not initiated by arrest, order of
12 supervision, or order of qualified probation for a
13 Minor Cannabis Offense committed prior to June 25,
14 2019 (the effective date of Public Act 101-27) if:

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

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

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

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

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

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

10 (iii) Records created prior to January 1, 2000
11 shall be automatically expunged prior to January
12 1, 2025.

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

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

26 (2) Pardons Authorizing Expungement of Minor Cannabis

1 Offenses.

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

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

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

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

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

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

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

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

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

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

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

25 (D) Nothing in this Section is intended to
26 diminish or abrogate any rights or remedies otherwise

1 available to the individual.

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

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

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

1 Attorney shall notify the Prisoner Review Board within 30
2 days. Upon entry of the order of expungement, the circuit
3 court clerk shall promptly provide a copy of the order and
4 a certificate of disposition to the individual whose
5 records will be expunged to the individual's last known
6 address or by electronic means (if available) or otherwise
7 make available to the individual upon request. If a motion
8 to vacate and expunge is granted, the records shall be
9 expunged in accordance with subparagraphs (d)(8) and
10 (d)(9)(A) of this Section.

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

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

1 the case is pending at the time; and (C) the person has not
2 been sentenced of the minor cannabis violation eligible
3 for expungement under this subsection, the court shall
4 consider the following: the reasons to retain the records
5 provided by law enforcement, the petitioner's age, the
6 petitioner's age at the time of offense, the time since
7 the conviction, and the specific adverse consequences if
8 denied. If a motion to dismiss and expunge is granted, the
9 records shall be expunged in accordance with subparagraph
10 (d) (9) (A) of this Section.

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

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

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

24 (10) Effect of Expungement. A person's right to
25 expunge an expungeable offense shall not be limited under
26 this Section. The effect of an order of expungement shall

1 be to restore the person to the status he or she occupied
2 before the arrest, charge, or conviction.

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

6 (j) Felony Prostitution Convictions.

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

15 (A) the reasons to retain the records provided by
16 law enforcement;

17 (B) the petitioner's age;

18 (C) the petitioner's age at the time of offense;
19 and

20 (D) the time since the conviction, and the
21 specific adverse consequences if denied. An individual
22 may file the petition after the completion of any
23 sentence or condition imposed by the conviction.
24 Within 60 days of the filing of the motion, a State's
25 Attorney may file an objection to the petition along
26 with supporting evidence. If a motion to vacate and

1 expunge is granted, the records shall be expunged in
2 accordance with subparagraph (d)(9)(A) of this
3 Section. An agency providing civil legal aid, as
4 defined in Section 15 of the Public Interest Attorney
5 Assistance Act, assisting individuals seeking to file
6 a motion to vacate and expunge under this subsection
7 may file motions to vacate and expunge with the Chief
8 Judge of a judicial circuit or any judge of the circuit
9 designated by the Chief Judge, and the motion may
10 include more than one individual.

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

19 (A) the reasons to retain the records provided by
20 law enforcement;

21 (B) the petitioner's age;

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

23 (D) the time since the conviction; and

24 (E) the specific adverse consequences if denied.

25 If the State's Attorney files a motion to vacate and
26 expunge records for felony prostitution convictions

1 pursuant to this Section, the State's Attorney shall
2 notify the Prisoner Review Board within 30 days of the
3 filing. If a motion to vacate and expunge is granted, the
4 records shall be expunged in accordance with subparagraph
5 (d) (9) (A) of this Section.

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

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

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

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

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

26 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;

1 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
2 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;
3 102-558, 8-20-21; 102-639, eff. 8-27-21; revised 10-5-21.)

4 Section 10. The Public Community College Act is amended by
5 adding Section 3-17.5 as follows:

6 (110 ILCS 805/3-17.5 new)

7 Sec. 3-17.5. Educational expenses for persons with minor
8 cannabis offense.

9 (a) As used in this Section, "minor cannabis offense" has
10 the meaning give to that term in Section 5.2 of the Criminal
11 Identification Act.

12 (b) Notwithstanding any other provision of law, a
13 currently enrolled student at a community college who has
14 provided the community college with documentation evidencing
15 that the person was convicted of a minor cannabis offense that
16 has not been expunged shall receive from the community college
17 the following, as needed by the student: (1) a housing stipend
18 of up to \$1,000 per month; (2) health insurance that includes
19 mental health care; and (3) prepaid access to local transit
20 systems for transportation to and from the community college.

21 (c) The Board of Higher Education shall develop an
22 application process for an applicant to a community college or
23 a currently enrolled student to request assistance under
24 subsection (b).