



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4851

Introduced 2/7/2024, by Rep. Tony M. McCombie

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that the court may not order the sealing or expungement of the records of arrests or charges not initiated by arrest that result in an order of supervision for or conviction of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof (DUI) under the Illinois Vehicle Code or a similar provision of a local ordinance; except that the court may order the sealing of one misdemeanor record of arrest or charge not initiated by arrest that results in an order of supervision for or conviction of DUI under the Illinois Vehicle Code or a similar provision of a local ordinance per petitioner if each of the following conditions have been met: (1) the petitioner has not previously been convicted of or placed on supervision for DUI under the Illinois Vehicle Code or a similar provision of a local ordinance; (2) 10 or more years have passed since the termination of the petitioner's sentence; (3) during the commission of the violation, the petitioner did not proximately cause death or personal injury to any other person or damage the property of any other person; (4) the petitioner has no other misdemeanor or felony driving charge on his or her driving abstract; and (5) the judge examined the driving abstract of the petitioner petitioning to have his or her records sealed under this provision and made a finding entered on the record that the petitioner did not enter into a plea agreement on a lesser charge other than a DUI under the Illinois Vehicle Code or a similar provision of a local ordinance, and the facts did not support that the petitioner had previously committed a DUI under the Illinois Vehicle Code or a similar provision of a local ordinance. Provides that the Secretary of State shall maintain orders of court supervision and convictions for DUI under the Illinois vehicle Code or a similar provision of a local ordinance on court purposes driving abstracts.

LRB103 36508 AWJ 66614 b

1 AN ACT concerning State government.

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

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

15 Business Offense, Section 5-1-2.

16 Charge, Section 5-1-3.

17 Court, Section 5-1-6.

18 Defendant, Section 5-1-7.

19 Felony, Section 5-1-9.

20 Imprisonment, Section 5-1-10.

21 Judgment, Section 5-1-12.

22 Misdemeanor, Section 5-1-14.

23 Offense, Section 5-1-15.

1 Parole, Section 5-1-16.
2 Petty Offense, Section 5-1-17.
3 Probation, Section 5-1-18.
4 Sentence, Section 5-1-19.
5 Supervision, Section 5-1-21.
6 Victim, Section 5-1-22.

7 (B) As used in this Section, "charge not initiated
8 by arrest" means a charge (as defined by Section 5-1-3
9 of the Unified Code of Corrections) brought against a
10 defendant where the defendant is not arrested prior to
11 or as a direct result of the charge.

12 (C) "Conviction" means a judgment of conviction or
13 sentence entered upon a plea of guilty or upon a
14 verdict or finding of guilty of an offense, rendered
15 by a legally constituted jury or by a court of
16 competent jurisdiction authorized to try the case
17 without a jury. An order of supervision successfully
18 completed by the petitioner is not a conviction. An
19 order of qualified probation (as defined in subsection
20 (a) (1) (J)) successfully completed by the petitioner is
21 not a conviction. An order of supervision or an order
22 of qualified probation that is terminated
23 unsatisfactorily is a conviction, unless the
24 unsatisfactory termination is reversed, vacated, or
25 modified and the judgment of conviction, if any, is
26 reversed or vacated.

1 (D) "Criminal offense" means a petty offense,
2 business offense, misdemeanor, felony, or municipal
3 ordinance violation (as defined in subsection
4 (a)(1)(H)). As used in this Section, a minor traffic
5 offense (as defined in subsection (a)(1)(G)) shall not
6 be considered a criminal offense.

7 (E) "Expunge" means to physically destroy the
8 records or return them to the petitioner and to
9 obliterate the petitioner's name from any official
10 index or public record, or both. Nothing in this Act
11 shall require the physical destruction of the circuit
12 court file, but such records relating to arrests or
13 charges, or both, ordered expunged shall be impounded
14 as required by subsections (d)(9)(A)(ii) and
15 (d)(9)(B)(ii).

16 (F) As used in this Section, "last sentence" means
17 the sentence, order of supervision, or order of
18 qualified probation (as defined by subsection
19 (a)(1)(J)), for a criminal offense (as defined by
20 subsection (a)(1)(D)) that terminates last in time in
21 any jurisdiction, regardless of whether the petitioner
22 has included the criminal offense for which the
23 sentence or order of supervision or qualified
24 probation was imposed in his or her petition. If
25 multiple sentences, orders of supervision, or orders
26 of qualified probation terminate on the same day and

1 are last in time, they shall be collectively
2 considered the "last sentence" regardless of whether
3 they were ordered to run concurrently.

4 (G) "Minor traffic offense" means a petty offense,
5 business offense, or Class C misdemeanor under the
6 Illinois Vehicle Code or a similar provision of a
7 municipal or local ordinance.

8 (G-5) "Minor Cannabis Offense" means a violation
9 of Section 4 or 5 of the Cannabis Control Act
10 concerning not more than 30 grams of any substance
11 containing cannabis, provided the violation did not
12 include a penalty enhancement under Section 7 of the
13 Cannabis Control Act and is not associated with an
14 arrest, conviction or other disposition for a violent
15 crime as defined in subsection (c) of Section 3 of the
16 Rights of Crime Victims and Witnesses Act.

17 (H) "Municipal ordinance violation" means an
18 offense defined by a municipal or local ordinance that
19 is criminal in nature and with which the petitioner
20 was charged or for which the petitioner was arrested
21 and released without charging.

22 (I) "Petitioner" means an adult or a minor
23 prosecuted as an adult who has applied for relief
24 under this Section.

25 (J) "Qualified probation" means an order of
26 probation under Section 10 of the Cannabis Control

1 Act, Section 410 of the Illinois Controlled Substances
2 Act, Section 70 of the Methamphetamine Control and
3 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
4 of the Unified Code of Corrections, Section
5 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as
6 those provisions existed before their deletion by
7 Public Act 89-313), Section 10-102 of the Illinois
8 Alcoholism and Other Drug Dependency Act, Section
9 40-10 of the Substance Use Disorder Act, or Section 10
10 of the Steroid Control Act. For the purpose of this
11 Section, "successful completion" of an order of
12 qualified probation under Section 10-102 of the
13 Illinois Alcoholism and Other Drug Dependency Act and
14 Section 40-10 of the Substance Use Disorder Act means
15 that the probation was terminated satisfactorily and
16 the judgment of conviction was vacated.

17 (K) "Seal" means to physically and electronically
18 maintain the records, unless the records would
19 otherwise be destroyed due to age, but to make the
20 records unavailable without a court order, subject to
21 the exceptions in Sections 12 and 13 of this Act. The
22 petitioner's name shall also be obliterated from the
23 official index required to be kept by the circuit
24 court clerk under Section 16 of the Clerks of Courts
25 Act, but any index issued by the circuit court clerk
26 before the entry of the order to seal shall not be

1 affected.

2 (L) "Sexual offense committed against a minor"
3 includes, but is not limited to, the offenses of
4 indecent solicitation of a child or criminal sexual
5 abuse when the victim of such offense is under 18 years
6 of age.

7 (M) "Terminate" as it relates to a sentence or
8 order of supervision or qualified probation includes
9 either satisfactory or unsatisfactory termination of
10 the sentence, unless otherwise specified in this
11 Section. A sentence is terminated notwithstanding any
12 outstanding financial legal obligation.

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

17 (2.5) Commencing 180 days after July 29, 2016 (the
18 effective date of Public Act 99-697), the law enforcement
19 agency issuing the citation shall automatically expunge,
20 on or before January 1 and July 1 of each year, the law
21 enforcement records of a person found to have committed a
22 civil law violation of subsection (a) of Section 4 of the
23 Cannabis Control Act or subsection (c) of Section 3.5 of
24 the Drug Paraphernalia Control Act in the law enforcement
25 agency's possession or control and which contains the
26 final satisfactory disposition which pertain to the person

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

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

19 (A) the sealing or expungement of the records of
20 arrests or charges not initiated by arrest that result
21 in an order of supervision for or conviction of: (i)
22 any sexual offense committed against a minor; (ii)
23 Section 11-501 of the Illinois Vehicle Code or a
24 similar provision of a local ordinance if, at the time
25 of the violation, the person held a commercial
26 driver's license or commercial learner's permit or was

1 operating a commercial motor vehicle; or (iii) Section
2 11-503 of the Illinois Vehicle Code or a similar
3 provision of a local ordinance, unless the arrest or
4 charge is for a misdemeanor violation of subsection
5 (a) of Section 11-503 or a similar provision of a local
6 ordinance, that occurred prior to the offender
7 reaching the age of 25 years and the offender has no
8 other conviction for violating Section 11-501 or
9 11-503 of the Illinois Vehicle Code or a similar
10 provision of a local ordinance.

11 (B) the sealing or expungement of records of minor
12 traffic offenses (as defined in subsection (a)(1)(G)),
13 unless the petitioner was arrested and released
14 without charging.

15 (C) the sealing of the records of arrests or
16 charges not initiated by arrest which result in an
17 order of supervision or a conviction for the following
18 offenses:

19 (i) offenses included in Article 11 of the
20 Criminal Code of 1961 or the Criminal Code of 2012
21 or a similar provision of a local ordinance,
22 except Section 11-14 and a misdemeanor violation
23 of Section 11-30 of the Criminal Code of 1961 or
24 the Criminal Code of 2012, or a similar provision
25 of a local ordinance;

26 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,

1 26-5, or 48-1 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, or a similar provision of a
3 local ordinance;

4 (iii) Section 12-3.1 or 12-3.2 of the Criminal
5 Code of 1961 or the Criminal Code of 2012, or
6 Section 125 of the Stalking No Contact Order Act,
7 or Section 219 of the Civil No Contact Order Act,
8 or a similar provision of a local ordinance;

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

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

14 (D) (blank).

15 (E) the sealing or expungement of records of
16 arrests or charges not initiated by arrest that result
17 in an order of supervision for or conviction of
18 Section 11-501 of the Illinois Vehicle Code or a
19 similar provision of a local ordinance; except that
20 the court may order the sealing of one misdemeanor
21 record of arrest or charge not initiated by arrest
22 that results in an order of supervision for or
23 conviction of Section 11-501 of the Illinois Vehicle
24 Code or a similar provision of a local ordinance per
25 petitioner if each of the following conditions have
26 been met: (i) the petitioner has not previously been

1 convicted of or placed on supervision for a violation
2 of Section 11-501 of the Illinois Vehicle Code or a
3 similar provision of a local ordinance; (ii) 10 or
4 more years have passed since the termination of the
5 petitioner's sentence; (iii) during the commission of
6 the violation, the petitioner did not proximately
7 cause death or personal injury to any other person or
8 damage the property of any other person; (iv) the
9 petitioner has no other misdemeanor or felony driving
10 charge on his or her driving abstract; and (v) the
11 judge examined the driving abstract of the petitioner
12 petitioning to have his or her record sealed under
13 this subparagraph (E) and made a finding entered on
14 the record that the petitioner did not enter into a
15 plea agreement on a lesser charge other than a
16 violation of Section 11-501 of the Illinois Vehicle
17 Code or a similar provision of a local ordinance, and
18 the facts did not support that the petitioner had
19 previously committed a violation of Section 11-501 of
20 the Illinois Vehicle Code or a similar provision of a
21 local ordinance. A felony conviction of Section 11-501
22 of the Illinois Vehicle Code or a similar provision of
23 a local ordinance may not be sealed or expunged under
24 this subparagraph (E). Notwithstanding any provision
25 of this Act to the contrary, the Secretary of State
26 shall maintain orders of court supervision and

1 convictions of Section 11-501 of the Illinois Vehicle
2 Code or a similar provision of a local ordinance on
3 court purposes driving abstracts. This paragraph does
4 not apply to a person who held, at the time of the
5 violation of Section 11-501 of the Illinois Vehicle
6 Code or a similar provision of a local ordinance, a
7 commercial driver's license or commercial learner's
8 permit or was operating a commercial motor vehicle.

9 (b) Expungement.

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

23 (1.5) When a petitioner seeks to have a record of
24 arrest expunged under this Section, and the offender has
25 been convicted of a criminal offense, the State's Attorney
26 may object to the expungement on the grounds that the

1 records contain specific relevant information aside from
2 the mere fact of the arrest.

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

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

10 (B) When the arrest or charge not initiated by
11 arrest sought to be expunged resulted in an order of
12 supervision, successfully completed by the petitioner,
13 the following time frames will apply:

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

24 (i-5) Those arrests or charges that resulted
25 in orders of supervision for a misdemeanor
26 violation of subsection (a) of Section 11-503 of

1 the Illinois Vehicle Code or a similar provision
2 of a local ordinance, that occurred prior to the
3 offender reaching the age of 25 years and the
4 offender has no other conviction for violating
5 Section 11-501 or 11-503 of the Illinois Vehicle
6 Code or a similar provision of a local ordinance
7 shall not be eligible for expungement until the
8 petitioner has reached the age of 25 years.

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

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

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

24 (4) Whenever a person has been arrested for or
25 convicted of any offense, in the name of a person whose
26 identity he or she has stolen or otherwise come into

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

26 (5) Whenever a person has been convicted of criminal

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

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

25 (7) Nothing in this Section shall prevent the Illinois
26 State Police from maintaining all records of any person

1 who is admitted to probation upon terms and conditions and
2 who fulfills those terms and conditions pursuant to
3 Section 10 of the Cannabis Control Act, Section 410 of the
4 Illinois Controlled Substances Act, Section 70 of the
5 Methamphetamine Control and Community Protection Act,
6 Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
7 Corrections, Section 12-4.3 or subdivision (b)(1) of
8 Section 12-3.05 of the Criminal Code of 1961 or the
9 Criminal Code of 2012, Section 10-102 of the Illinois
10 Alcoholism and Other Drug Dependency Act, Section 40-10 of
11 the Substance Use Disorder Act, or Section 10 of the
12 Steroid Control Act.

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

20 (c) Sealing.

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

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

3 (A) All arrests resulting in release without
4 charging;

5 (B) Arrests or charges not initiated by arrest
6 resulting in acquittal, dismissal, or conviction when
7 the conviction was reversed or vacated, except as
8 excluded by subsection (a) (3) (B);

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

14 (D) Arrests or charges not initiated by arrest
15 resulting in convictions, including convictions on
16 municipal ordinance violations, unless excluded by
17 subsection (a) (3);

18 (E) Arrests or charges not initiated by arrest
19 resulting in orders of first offender probation under
20 Section 10 of the Cannabis Control Act, Section 410 of
21 the Illinois Controlled Substances Act, Section 70 of
22 the Methamphetamine Control and Community Protection
23 Act, or Section 5-6-3.3 of the Unified Code of
24 Corrections; and

25 (F) Arrests or charges not initiated by arrest
26 resulting in felony convictions unless otherwise

1 excluded by subsection (a) paragraph (3) of this
2 Section.

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

6 (A) Records identified as eligible under
7 subsections (c)(2)(A) and (c)(2)(B) may be sealed at
8 any time.

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

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

25 (D) Records identified in subsection
26 (a)(3)(A)(iii) may be sealed after the petitioner has

1 reached the age of 25 years.

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

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

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

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

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

21 (1.5) County fee waiver pilot program. From August 9,
22 2019 (the effective date of Public Act 101-306) through
23 December 31, 2020, in a county of 3,000,000 or more
24 inhabitants, no fee shall be required to be paid by a
25 petitioner if the records sought to be expunged or sealed
26 were arrests resulting in release without charging or

1 arrests or charges not initiated by arrest resulting in
2 acquittal, dismissal, or conviction when the conviction
3 was reversed or vacated, unless excluded by subsection
4 (a)(3)(B). The provisions of this paragraph (1.5), other
5 than this sentence, are inoperative on and after January
6 1, 2022.

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

21 (3) Drug test. The petitioner must attach to the
22 petition proof that the petitioner has taken within 30
23 days before the filing of the petition a test showing the
24 absence within his or her body of all illegal substances
25 as defined by the Illinois Controlled Substances Act and
26 the Methamphetamine Control and Community Protection Act

1 if he or she is petitioning to:

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

3 (B) seal felony records for a violation of the
4 Illinois Controlled Substances Act, the
5 Methamphetamine Control and Community Protection Act,
6 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

17 (5) Objections.

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

26 (B) Objections to a petition to expunge or seal

1 must be filed within 60 days of the date of service of
2 the petition.

3 (6) Entry of order.

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

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

17 (C) Notwithstanding any other provision of law,
18 the court shall not deny a petition for sealing under
19 this Section because the petitioner has not satisfied
20 an outstanding legal financial obligation established,
21 imposed, or originated by a court, law enforcement
22 agency, or a municipal, State, county, or other unit
23 of local government, including, but not limited to,
24 any cost, assessment, fine, or fee. An outstanding
25 legal financial obligation does not include any court
26 ordered restitution to a victim under Section 5-5-6 of

1 the Unified Code of Corrections, unless the
2 restitution has been converted to a civil judgment.
3 Nothing in this subparagraph (C) waives, rescinds, or
4 abrogates a legal financial obligation or otherwise
5 eliminates or affects the right of the holder of any
6 financial obligation to pursue collection under
7 applicable federal, State, or local law.

8 (D) Notwithstanding any other provision of law,
9 the court shall not deny a petition to expunge or seal
10 under this Section because the petitioner has
11 submitted a drug test taken within 30 days before the
12 filing of the petition to expunge or seal that
13 indicates a positive test for the presence of cannabis
14 within the petitioner's body. In this subparagraph
15 (D), "cannabis" has the meaning ascribed to it in
16 Section 3 of the Cannabis Control Act.

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

1 on the evidence presented at the hearing. The court may
2 consider the following:

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

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

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

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

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

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

24 (9) Implementation of order.

25 (A) Upon entry of an order to expunge records
26 pursuant to subsection (b) (2) (A) or (b) (2) (B) (ii), or

1 both:

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

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

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

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

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 pursuant to 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 within 60 days of the date
18 of service of the order as ordered by the court,
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 (iv) records impounded by the Illinois State
23 Police may be disseminated by the Illinois State
24 Police only as required by law or to the arresting
25 authority, the State's Attorney, and the court
26 upon a later arrest for the same or a similar

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

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

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

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

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

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

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

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

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

1 access such records, the court, the Illinois State
2 Police, or the agency receiving such inquiry shall
3 reply as it does in response to inquiries when no
4 records ever existed.

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

21 (E) Upon motion, the court may order that a sealed
22 judgment or other court record necessary to
23 demonstrate the amount of any legal financial
24 obligation due and owing be made available for the
25 limited purpose of collecting any legal financial
26 obligations owed by the petitioner that were

1 established, imposed, or originated in the criminal
2 proceeding for which those records have been sealed.
3 The records made available under this subparagraph (E)
4 shall not be entered into the official index required
5 to be kept by the circuit court clerk under Section 16
6 of the Clerks of Courts Act and shall be immediately
7 re-impounded upon the collection of the outstanding
8 financial obligations.

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

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

1 petition to seal or expunge on all parties. The circuit
2 court clerk shall collect and remit the Illinois State
3 Police portion of the fee to the State Treasurer and it
4 shall be deposited in the State Police Services Fund. If
5 the record brought under an expungement petition was
6 previously sealed under this Section, the fee for the
7 expungement petition for that same record shall be waived.

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

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

25 (13) Effect of Order. An order granting a petition
26 under the expungement or sealing provisions of this

1 Section shall not be considered void because it fails to
2 comply with the provisions of this Section or because of
3 any error asserted in a motion to vacate, modify, or
4 reconsider. The circuit court retains jurisdiction to
5 determine whether the order is voidable and to vacate,
6 modify, or reconsider its terms based on a motion filed
7 under paragraph (12) of this subsection (d).

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

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

26 (16) The changes to this subsection (d) made by Public

1 Act 98-163 apply to all petitions pending on August 5,
2 2013 (the effective date of Public Act 98-163) and to all
3 orders ruling on a petition to expunge or seal on or after
4 August 5, 2013 (the effective date of Public Act 98-163).

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

1 subsequent felony. Upon conviction for any subsequent offense,
2 the Department of Corrections shall have access to all sealed
3 records of the Illinois State Police pertaining to that
4 individual. Upon entry of the order of expungement, the
5 circuit court clerk shall promptly mail a copy of the order to
6 the person who was pardoned.

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

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

12 (e-6) Whenever a person who has been convicted of an
13 offense is granted a certificate of eligibility for
14 expungement by the Prisoner Review Board which specifically
15 authorizes expungement, he or she may, upon verified petition
16 to the Chief Judge of the circuit where the person had been
17 convicted, any judge of the circuit designated by the Chief
18 Judge, or in counties of less than 3,000,000 inhabitants, the
19 presiding trial judge at the petitioner's trial, have a court
20 order entered expunging the record of arrest from the official
21 records of the arresting authority and order that the records
22 of the circuit court clerk and the Illinois State Police be
23 sealed until further order of the court upon good cause shown
24 or as otherwise provided herein, and the name of the
25 petitioner obliterated from the official index requested to be
26 kept by the circuit court clerk under Section 16 of the Clerks

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

17 (f) Subject to available funding, the Illinois Department
18 of Corrections shall conduct a study of the impact of sealing,
19 especially on employment and recidivism rates, utilizing a
20 random sample of those who apply for the sealing of their
21 criminal records under Public Act 93-211. At the request of
22 the Illinois Department of Corrections, records of the
23 Illinois Department of Employment Security shall be utilized
24 as appropriate to assist in the study. The study shall not
25 disclose any data in a manner that would allow the
26 identification of any particular individual or employing unit.

1 The study shall be made available to the General Assembly no
2 later than September 1, 2010.

3 (g) Immediate Sealing.

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

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

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

22 (4) Notice of Eligibility for Immediate Sealing. Upon
23 entry of a disposition for an eligible record under this
24 subsection (g), the defendant shall be informed by the
25 court of his or her right to have eligible records
26 immediately sealed and the procedure for the immediate

1 sealing of these records.

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

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

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

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

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

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

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

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

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

20 (I) Fees. The fee imposed by the circuit court
21 clerk and the Illinois State Police shall comply with
22 paragraph (1) of subsection (d) of this Section.

23 (J) Final Order. No court order issued under this
24 subsection (g) shall become final for purposes of
25 appeal until 30 days after service of the order on the
26 petitioner and all parties entitled to service of the

1 order in conformance with subsection (d) (8).

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

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

21 (M) Compliance with Order Granting Petition to
22 Seal Records. Unless a court has entered a stay of an
23 order granting a petition to immediately seal, all
24 parties entitled to service of the order must fully
25 comply with the terms of the order within 60 days of
26 service of the order.

1 (h) Sealing or vacation and expungement of trafficking
2 victims' crimes.

3 (1) A trafficking victim, as defined by paragraph (10)
4 of subsection (a) of Section 10-9 of the Criminal Code of
5 2012, may petition for vacation and expungement or
6 immediate sealing of his or her criminal record upon the
7 completion of his or her last sentence if his or her
8 participation in the underlying offense was a result of
9 human trafficking under Section 10-9 of the Criminal Code
10 of 2012 or a severe form of trafficking under the federal
11 Trafficking Victims Protection Act.

12 (1.5) A petition under paragraph (1) shall be
13 prepared, signed, and filed in accordance with Supreme
14 Court Rule 9. The court may allow the petitioner to attend
15 any required hearing remotely in accordance with local
16 rules. The court may allow a petition to be filed under
17 seal if the public filing of the petition would constitute
18 a risk of harm to the petitioner.

19 (2) A petitioner under this subsection (h), in
20 addition to the requirements provided under paragraph (4)
21 of subsection (d) of this Section, shall include in his or
22 her petition a clear and concise statement that: (A) he or
23 she was a victim of human trafficking at the time of the
24 offense; and (B) that his or her participation in the
25 offense was a result of human trafficking under Section
26 10-9 of the Criminal Code of 2012 or a severe form of

1 trafficking under the federal Trafficking Victims
2 Protection Act.

3 (3) If an objection is filed alleging that the
4 petitioner is not entitled to vacation and expungement or
5 immediate sealing under this subsection (h), the court
6 shall conduct a hearing under paragraph (7) of subsection
7 (d) of this Section and the court shall determine whether
8 the petitioner is entitled to vacation and expungement or
9 immediate sealing under this subsection (h). A petitioner
10 is eligible for vacation and expungement or immediate
11 relief under this subsection (h) if he or she shows, by a
12 preponderance of the evidence, that: (A) he or she was a
13 victim of human trafficking at the time of the offense;
14 and (B) that his or her participation in the offense was a
15 result of human trafficking under Section 10-9 of the
16 Criminal Code of 2012 or a severe form of trafficking
17 under the federal Trafficking Victims Protection Act.

18 (i) Minor Cannabis Offenses under the Cannabis Control
19 Act.

20 (1) Expungement of Arrest Records of Minor Cannabis
21 Offenses.

22 (A) The Illinois State Police and all law
23 enforcement agencies within the State shall
24 automatically expunge all criminal history records of
25 an arrest, charge not initiated by arrest, order of
26 supervision, or order of qualified probation for a

1 Minor Cannabis Offense committed prior to June 25,
2 2019 (the effective date of Public Act 101-27) if:

3 (i) One year or more has elapsed since the
4 date of the arrest or law enforcement interaction
5 documented in the records; and

6 (ii) No criminal charges were filed relating
7 to the arrest or law enforcement interaction or
8 criminal charges were filed and subsequently
9 dismissed or vacated or the arrestee was
10 acquitted.

11 (B) If the law enforcement agency is unable to
12 verify satisfaction of condition (ii) in paragraph
13 (A), records that satisfy condition (i) in paragraph
14 (A) shall be automatically expunged.

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

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

21 (ii) Records created prior to January 1, 2013,
22 but on or after January 1, 2000, shall be
23 automatically expunged prior to January 1, 2023;

24 (iii) Records created prior to January 1, 2000
25 shall be automatically expunged prior to January
26 1, 2025.

1 In response to an inquiry for expunged records,
2 the law enforcement agency receiving such inquiry
3 shall reply as it does in response to inquiries when no
4 records ever existed; however, it shall provide a
5 certificate of disposition or confirmation that the
6 record was expunged to the individual whose record was
7 expunged if such a record exists.

8 (D) Nothing in this Section shall be construed to
9 restrict or modify an individual's right to have that
10 individual's records expunged except as otherwise may
11 be provided in this Act, or diminish or abrogate any
12 rights or remedies otherwise available to the
13 individual.

14 (2) Pardons Authorizing Expungement of Minor Cannabis
15 Offenses.

16 (A) Upon June 25, 2019 (the effective date of
17 Public Act 101-27), the Department of State Police
18 shall review all criminal history record information
19 and identify all records that meet all of the
20 following criteria:

21 (i) one or more convictions for a Minor
22 Cannabis Offense;

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

26 (iii) the conviction identified in paragraph

1 (2) (A) (i) is not associated with a conviction for
2 a violent crime as defined in subsection (c) of
3 Section 3 of the Rights of Crime Victims and
4 Witnesses Act.

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

10 (i) The Prisoner Review Board shall notify the
11 State's Attorney of the county of conviction of
12 each record identified by State Police in
13 paragraph (2) (A) that is classified as a Class 4
14 felony. The State's Attorney may provide a written
15 objection to the Prisoner Review Board on the sole
16 basis that the record identified does not meet the
17 criteria established in paragraph (2) (A). Such an
18 objection must be filed within 60 days or by such
19 later date set by the Prisoner Review Board in the
20 notice after the State's Attorney received notice
21 from the Prisoner Review Board.

22 (ii) In response to a written objection from a
23 State's Attorney, the Prisoner Review Board is
24 authorized to conduct a non-public hearing to
25 evaluate the information provided in the
26 objection.

1 (iii) The Prisoner Review Board shall make a
2 confidential and privileged recommendation to the
3 Governor as to whether to grant a pardon
4 authorizing expungement for each of the records
5 identified by the Department of State Police as
6 described in paragraph (2) (A).

7 (C) If an individual has been granted a pardon
8 authorizing expungement as described in this Section,
9 the Prisoner Review Board, through the Attorney
10 General, shall file a petition for expungement with
11 the Chief Judge of the circuit or any judge of the
12 circuit designated by the Chief Judge where the
13 individual had been convicted. Such petition may
14 include more than one individual. Whenever an
15 individual who has been convicted of an offense is
16 granted a pardon by the Governor that specifically
17 authorizes expungement, an objection to the petition
18 may not be filed. Petitions to expunge under this
19 subsection (i) may include more than one individual.
20 Within 90 days of the filing of such a petition, the
21 court shall enter an order expunging the records of
22 arrest from the official records of the arresting
23 authority and order that the records of the circuit
24 court clerk and the Illinois State Police be expunged
25 and the name of the defendant obliterated from the
26 official index requested to be kept by the circuit

1 court clerk under Section 16 of the Clerks of Courts
2 Act in connection with the arrest and conviction for
3 the offense for which the individual had received a
4 pardon but the order shall not affect any index issued
5 by the circuit court clerk before the entry of the
6 order. Upon entry of the order of expungement, the
7 circuit court clerk shall promptly provide a copy of
8 the order and a certificate of disposition to the
9 individual who was pardoned to the individual's last
10 known address or by electronic means (if available) or
11 otherwise make it available to the individual upon
12 request.

13 (D) Nothing in this Section is intended to
14 diminish or abrogate any rights or remedies otherwise
15 available to the individual.

16 (3) Any individual may file a motion to vacate and
17 expunge a conviction for a misdemeanor or Class 4 felony
18 violation of Section 4 or Section 5 of the Cannabis
19 Control Act. Motions to vacate and expunge under this
20 subsection (i) may be filed with the circuit court, Chief
21 Judge of a judicial circuit or any judge of the circuit
22 designated by the Chief Judge. The circuit court clerk
23 shall promptly serve a copy of the motion to vacate and
24 expunge, and any supporting documentation, on the State's
25 Attorney or prosecutor charged with the duty of
26 prosecuting the offense. When considering such a motion to

1 vacate and expunge, a court shall consider the following:
2 the reasons to retain the records provided by law
3 enforcement, the petitioner's age, the petitioner's age at
4 the time of offense, the time since the conviction, and
5 the specific adverse consequences if denied. An individual
6 may file such a petition after the completion of any
7 non-financial sentence or non-financial condition imposed
8 by the conviction. Within 60 days of the filing of such
9 motion, a State's Attorney may file an objection to such a
10 petition along with supporting evidence. If a motion to
11 vacate and expunge is granted, the records shall be
12 expunged in accordance with subparagraphs (d)(8) and
13 (d)(9)(A) of this Section. An agency providing civil legal
14 aid, as defined by Section 15 of the Public Interest
15 Attorney Assistance Act, assisting individuals seeking to
16 file a motion to vacate and expunge under this subsection
17 may file motions to vacate and expunge with the Chief
18 Judge of a judicial circuit or any judge of the circuit
19 designated by the Chief Judge, and the motion may include
20 more than one individual. Motions filed by an agency
21 providing civil legal aid concerning more than one
22 individual may be prepared, presented, and signed
23 electronically.

24 (4) Any State's Attorney may file a motion to vacate
25 and expunge a conviction for a misdemeanor or Class 4
26 felony violation of Section 4 or Section 5 of the Cannabis

1 Control Act. Motions to vacate and expunge under this
2 subsection (i) may be filed with the circuit court, Chief
3 Judge of a judicial circuit or any judge of the circuit
4 designated by the Chief Judge, and may include more than
5 one individual. Motions filed by a State's Attorney
6 concerning more than one individual may be prepared,
7 presented, and signed electronically. When considering
8 such a motion to vacate and expunge, a court shall
9 consider the following: the reasons to retain the records
10 provided by law enforcement, the individual's age, the
11 individual's age at the time of offense, the time since
12 the conviction, and the specific adverse consequences if
13 denied. Upon entry of an order granting a motion to vacate
14 and expunge records pursuant to this Section, the State's
15 Attorney shall notify the Prisoner Review Board within 30
16 days. Upon entry of the order of expungement, the circuit
17 court clerk shall promptly provide a copy of the order and
18 a certificate of disposition to the individual whose
19 records will be expunged to the individual's last known
20 address or by electronic means (if available) or otherwise
21 make available to the individual upon request. If a motion
22 to vacate and expunge is granted, the records shall be
23 expunged in accordance with subparagraphs (d)(8) and
24 (d)(9)(A) of this Section.

25 (5) In the public interest, the State's Attorney of a
26 county has standing to file motions to vacate and expunge

1 pursuant to this Section in the circuit court with
2 jurisdiction over the underlying conviction.

3 (6) If a person is arrested for a Minor Cannabis
4 Offense as defined in this Section before June 25, 2019
5 (the effective date of Public Act 101-27) and the person's
6 case is still pending but a sentence has not been imposed,
7 the person may petition the court in which the charges are
8 pending for an order to summarily dismiss those charges
9 against him or her, and expunge all official records of
10 his or her arrest, plea, trial, conviction, incarceration,
11 supervision, or expungement. If the court determines, upon
12 review, that: (A) the person was arrested before June 25,
13 2019 (the effective date of Public Act 101-27) for an
14 offense that has been made eligible for expungement; (B)
15 the case is pending at the time; and (C) the person has not
16 been sentenced of the minor cannabis violation eligible
17 for expungement under this subsection, the court shall
18 consider the following: the reasons to retain the records
19 provided by law enforcement, the petitioner's age, the
20 petitioner's age at the time of offense, the time since
21 the conviction, and the specific adverse consequences if
22 denied. If a motion to dismiss and expunge is granted, the
23 records shall be expunged in accordance with subparagraph
24 (d) (9) (A) of this Section.

25 (7) A person imprisoned solely as a result of one or
26 more convictions for Minor Cannabis Offenses under this

1 subsection (i) shall be released from incarceration upon
2 the issuance of an order under this subsection.

3 (8) The Illinois State Police shall allow a person to
4 use the access and review process, established in the
5 Illinois State Police, for verifying that his or her
6 records relating to Minor Cannabis Offenses of the
7 Cannabis Control Act eligible under this Section have been
8 expunged.

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

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

17 (11) Information. The Illinois State Police shall post
18 general information on its website about the expungement
19 process described in this subsection (i).

20 (j) Felony Prostitution Convictions.

21 (1) Any individual may file a motion to vacate and
22 expunge a conviction for a prior Class 4 felony violation
23 of prostitution. Motions to vacate and expunge under this
24 subsection (j) may be filed with the circuit court, Chief
25 Judge of a judicial circuit, or any judge of the circuit
26 designated by the Chief Judge. When considering the motion

1 to vacate and expunge, a court shall consider the
2 following:

3 (A) the reasons to retain the records provided by
4 law enforcement;

5 (B) the petitioner's age;

6 (C) the petitioner's age at the time of offense;
7 and

8 (D) the time since the conviction, and the
9 specific adverse consequences if denied. An individual
10 may file the petition after the completion of any
11 sentence or condition imposed by the conviction.
12 Within 60 days of the filing of the motion, a State's
13 Attorney may file an objection to the petition along
14 with supporting evidence. If a motion to vacate and
15 expunge is granted, the records shall be expunged in
16 accordance with subparagraph (d)(9)(A) of this
17 Section. An agency providing civil legal aid, as
18 defined in Section 15 of the Public Interest Attorney
19 Assistance Act, assisting individuals seeking to file
20 a motion to vacate and expunge under this subsection
21 may file motions to vacate and expunge with the Chief
22 Judge of a judicial circuit or any judge of the circuit
23 designated by the Chief Judge, and the motion may
24 include more than one individual.

25 (2) Any State's Attorney may file a motion to vacate
26 and expunge a conviction for a Class 4 felony violation of

1 prostitution. Motions to vacate and expunge under this
2 subsection (j) may be filed with the circuit court, Chief
3 Judge of a judicial circuit, or any judge of the circuit
4 court designated by the Chief Judge, and may include more
5 than one individual. When considering the motion to vacate
6 and expunge, a court shall consider the following reasons:

7 (A) the reasons to retain the records provided by
8 law enforcement;

9 (B) the petitioner's age;

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

11 (D) the time since the conviction; and

12 (E) the specific adverse consequences if denied.

13 If the State's Attorney files a motion to vacate and
14 expunge records for felony prostitution convictions
15 pursuant to this Section, the State's Attorney shall
16 notify the Prisoner Review Board within 30 days of the
17 filing. If a motion to vacate and expunge is granted, the
18 records shall be expunged in accordance with subparagraph
19 (d) (9) (A) of this Section.

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

24 (4) The Illinois State Police shall allow a person to
25 use the access and review process, established in the
26 Illinois State Police, for verifying that his or her

1 records relating to felony prostitution eligible under
2 this Section have been expunged.

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

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

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

14 (Source: P.A. 102-145, eff. 7-23-21; 102-558, 8-20-21;
15 102-639, eff. 8-27-21; 102-813, eff. 5-13-22; 102-933, eff.
16 1-1-23; 103-35, eff. 1-1-24; 103-154, eff. 6-30-23.)