



Rep. Elgie R. Sims, Jr.

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1 AMENDMENT TO SENATE BILL 1747

2 AMENDMENT NO. _____. Amend Senate Bill 1747 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Gun
5 Violence Intervention Court Act.

6 Section 5. Purpose. The General Assembly recognizes the
7 effectiveness of nationally-recognized gun violence
8 intervention programs targeting and identifying high-risk,
9 potentially violent offenders, and more importantly, those who
10 play a leadership role in collective groups of high-risk,
11 potentially violent offenders in reducing violent crime and
12 creating a positive impact upon recidivism. Collaboration
13 between local, State and federal law enforcement and
14 prosecutorial agencies, as well as social service groups,
15 community organizations, job training agencies, and
16 educational partnerships to communicate to certain instigators

1 of violence that the behavior will not be tolerated, and
2 evoking an immediate and intense response in which those
3 admonishments are not adhered to. In addition, and most
4 importantly, offering clear alternatives to promote and
5 incentivize job training and education programming to diminish
6 violence in communities across Illinois. To monitor the
7 progress of the offenders, this Act hereby creates a
8 specialized gun violence intervention court model for local
9 jurisdictions in this State to identify and communicate a zero
10 tolerance policy for violent gun crime, while offering social
11 service and community outreach to promote education and job
12 training, positively affecting recidivism rates, and long-term
13 anti-violence goals.

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

15 "Call-in" means targeted communication on behalf of a law
16 enforcement agency participating in gun violence intervention
17 court with a high-risk, potentially violent offender or group
18 of offenders, advising the persons of the consequences of
19 continued illegal behavior while offering alternatives to
20 promote non-criminal behavior.

21 "Combination gun court program" means a gun court program
22 that involves a pre-adjudicatory gun court program and a
23 post-adjudicatory gun court program.

24 "Department" means the Department of Corrections.

25 "Gun violence intervention court", "gun court", or

1 "program" means an immediate and highly structured criminal
2 justice process by which law enforcement agencies collaborate
3 with local community organizations to identify particularly
4 high-risk violent offenders, and high-risk violent offenders
5 within groups of violent offenders, and communicate potential
6 sanctions for the continuance of certain illegal behaviors. As
7 part of the intervention, alternatives to non-violent behavior
8 are presented, such as job training, education, and counseling
9 services. If violent behaviors continue, the offender is
10 entered into an intensive and specialized prosecution and court
11 call, in which prior warnings of criminal sanction are carried
12 out. If incarceration is entered as part of the disposition,
13 social service and educational programs are offered in order to
14 promote positive behavioral change, along with continued
15 monitoring and services during periods of mandatory supervised
16 release.

17 "Gun violence intervention professional" means a member of
18 the gun court team, including, but not limited to, a judge,
19 prosecutor, defense attorney, probation officer, coordinator,
20 treatment provider, educator, or behavioral or mental health
21 counselor.

22 "Post-adjudicatory gun court program" means a program in
23 which the defendant has admitted guilt, or has been found
24 guilty, and the court agrees to permit the defendant to receive
25 specialized programming while incarcerated.

26 "Pre-adjudicatory gun court program" means a program that

1 allows the defendant, with the consent of the prosecution, to
2 expedite the defendant's criminal case before conviction or
3 before filing of a criminal case and requires successful
4 completion of individualized programming as part of the
5 agreement.

6 Section 15. Authorization. The Chief Judge of each judicial
7 circuit may establish a gun violence intervention court, and if
8 the gun court is established, shall implement the gun court and
9 enter dispositions under this Act.

10 Section 20. Eligibility.

11 (a) A defendant may be admitted into any gun violence
12 intervention court program under this Section 20 at the
13 recommendation of a local, State, or federal law enforcement
14 agency which has participated in a call-in with the defendant,
15 with the agreement of the prosecutor and with the approval of
16 the court.

17 (b) A defendant may be admitted into a pre-adjudicatory gun
18 court program for any violation under the Criminal Code of
19 2012, upon agreement of the defendant to enter into a
20 pre-adjudicatory gun court program.

21 (c) A defendant may be admitted into a post-adjudicatory
22 gun court program for a violation under Section 24-1.8,
23 subsection (a) of Section 24-1.1, paragraph (2), (3), (4), (5),
24 or (6) of subsection (a) of Section 24-1.2, or a Class 2 or

1 greater felony under Section 24-1.6 of the Criminal Code of
2 2012, whether or not the defendant agrees to be entered into a
3 post-adjudicatory gun court program.

4 (d) A defendant may be admitted into a combination gun
5 court program if during a pre-adjudicatory gun court program
6 under subsection (b) of this Section, he or she commits an
7 offense under subsection (c) of this Section.

8 Section 25. Pre-adjudicatory gun court program procedure.

9 (a) The court shall order an eligibility screening and an
10 assessment of the defendant by a team of gun court
11 professionals. The assessment shall include an individualized
12 risk assessment of the offender. The assessment shall also
13 identify community cooperatives that can assist with job
14 training, job placement, educational opportunities, or mental
15 health and behavioral counseling, if appropriate. The gun court
16 professionals shall submit a series of recommendations for
17 programming, and individualized monitoring and court
18 scheduling to ensure compliance with the recommended
19 programming.

20 (b) The court shall inform the defendant that if he or she
21 fails to meet the conditions of the gun court program,
22 eligibility to participate in the program may be revoked and
23 the prosecution may be continued for the underlying violation.

24 (c) The defendant shall execute a written and oral
25 agreement as to his or her participation in the program and

1 shall agree to all conditions of the program, including, but
2 not limited to, compliance with monitoring, court appearances,
3 job training, education training, or substance abuse,
4 behavioral health or mental health counseling as an outpatient,
5 inpatient, residential, or jail-based custodial treatment
6 program, and including, but not limited to, the possibility of
7 continued prosecution, sanctions, or incarceration for failing
8 to abide or comply with the terms of the program.

9 (d) The gun court program shall include a regimen of
10 graduated requirements and rewards and sanctions, including,
11 but not limited to: fines, fees, costs, restitution,
12 incarceration of up to 180 days, individual and group therapy,
13 drug analysis testing, close monitoring by the court at a
14 minimum of once every 30 days and supervision of progress,
15 educational or vocational counseling as appropriate, and other
16 requirements necessary to fulfill the gun court program at the
17 recommendation of the gun court professionals.

18 (e) If the court finds from the evidence presented
19 including, but not limited, to the reports or proffers of proof
20 from the drug court professionals that:

21 (1) the defendant is not performing satisfactorily in
22 the assigned program;

23 (2) the defendant is not benefitting from education,
24 treatment, or rehabilitation;

25 (3) the defendant has engaged in criminal conduct
26 rendering him or her unsuitable for the program; or

1 (4) the defendant has otherwise violated the terms and
2 conditions of the program or his or her sentence or is for
3 any reason unable to participate; the court may impose
4 reasonable sanctions under prior written agreement of the
5 defendant, including, but not limited to, imprisonment or
6 dismissal of the defendant from the program and the court
7 may reinstate criminal proceedings against him or her or
8 proceed under Section 5-6-4 of the Unified Code of
9 Corrections for a violation of probation, conditional
10 discharge, or supervision hearing.

11 (f) Upon successful completion of the terms and conditions
12 of the program, the court may dismiss the original charges
13 against the defendant or successfully terminate the
14 defendant's sentence or otherwise discharge him or her from any
15 further proceedings against him or her in the original
16 prosecution.

17 Section 30. Post-adjudicatory gun court program.

18 (a) The gun court may permit the prosecution for any
19 violation under Article 24 of the Criminal Code of 2012 to
20 proceed under this Act.

21 (b) If a person is found guilty of a violation under
22 subsection (c) of Section 20 of this Act, the court may order
23 an eligibility screening and assessment of the defendant. The
24 assessment shall include an individualized risk assessment of
25 the offender. The assessment shall also identify community

1 cooperatives that can assist with job training, job placement,
2 educational opportunities, or mental health and behavioral
3 counseling, when appropriate. The gun court professionals
4 shall submit a series of recommendations for programming, and
5 individualized monitoring and court scheduling to ensure
6 compliance with the recommended programming. The assessment
7 shall include programming recommendations for the defendant
8 while incarcerated, and upon release and reentry into society.

9 (c) At the defendant's sentencing hearing, after
10 considering all of the evidence in aggravation and mitigation,
11 the court may enter an order to the Department permitting the
12 issuance of a maximum of 180 days sentence credits to be
13 administered by the Department under paragraph (2.1) of
14 subsection (a) of Section 3-6-3 of the Unified Code of
15 Corrections, if the court finds by a preponderance of the
16 evidence that:

17 (1) permitting sentence credits would serve the goals
18 of the individual's rehabilitation and reentry into
19 society; and

20 (2) permitting sentence credits is in the interests of
21 the protection of the public. The trial judge shall specify
22 on the record the particular information, factors in
23 aggravation or mitigation, or other reasons that led to his
24 or her determination.

25 Section 35. Education seminars for judges. The

1 Administrative Office of the Illinois Courts may conduct
2 education seminars throughout this State on how to operate gun
3 court programs under this Act.

4 Section 105. The Department of State Police Law of the
5 Civil Administrative Code of Illinois is amended by adding
6 Section 2605-51 as follows:

7 (20 ILCS 2605/2605-51 new)

8 Sec. 2605-51. Sex Offenses and Sex Offender Registration
9 Task Force.

10 (a) The General Assembly acknowledges that numerous
11 criminal offenses that are categorized as sex offenses are
12 serious crimes that affect some of the most vulnerable victims.

13 (1) The Sex Offender Database was created as a
14 statewide database for the purpose of making information
15 regarding sex offenders publicly available so that victims
16 may be aware of released offenders and law enforcement may
17 have a tool to identify potential perpetrators of current
18 offenses. In addition to the Registry, sex offenders may be
19 subject to specific conditions and prohibitions for a
20 period after the person's release from imprisonment that
21 restricts where the person may reside, travel, and work.

22 (2) The General Assembly recognizes that the current
23 Sex Offender Database and sex offender restrictions do not
24 assess or differentiate based upon the specific risks of

1 each offender, potential threat to public safety, or an
2 offender's likelihood of reoffending.

3 (3) The General Assembly believes that a Task Force
4 should be created to ensure that law enforcement and
5 communities are able to identify the high-risk sex
6 offenders and focus on monitoring those offenders to
7 protect victims, improve public safety, and maintain the
8 seriousness of each offense.

9 (b) Sex Offenses and Sex Offender Registration Task Force.

10 (1) The Sex Offenses and Sex Offender Registration Task
11 Force is created to examine current offenses that require
12 offenders to register as sex offenders, conditions and
13 restrictions for registered sex offenders, and the
14 registration process.

15 (2) The Task Force shall hold public hearings at the
16 call of the co-chairpersons to receive testimony from the
17 public and make recommendations to the General Assembly
18 regarding legislative changes to more effectively classify
19 sex offenders based on their level of risk of re-offending,
20 better direct resources to monitor the most violent and
21 high risk offenders, and to ensure public safety.

22 (3) The Task Force shall be an independent Task Force
23 under the Department of State Police for administrative
24 purposes, and shall consist of the following members:

25 (A) the Director of Corrections, or his or her
26 designee;

1 (B) 2 members of the House of Representatives
2 appointed by the Speaker of the House of
3 Representatives, one of whom shall serve as
4 co-chairperson;

5 (C) 2 members of the Senate appointed by the
6 President of the Senate, one of whom shall serve as a
7 co-chairperson;

8 (D) a member of the Senate appointed by the
9 Minority Leader of the Senate;

10 (E) a member of the House of Representatives
11 appointed by the Minority Leader of the House of
12 Representatives;

13 (F) the Director of State Police, or his or her
14 designee;

15 (G) a representative of a statewide organization
16 against sexual assault, appointed by the Director of
17 State Police;

18 (H) a representative of a statewide organization
19 representing probation and court services agencies in
20 Illinois, appointed by the Director of State Police;
21 and

22 (I) a representative of a statewide organization
23 representing Illinois sheriffs, appointed by the
24 Director of State Police;

25 (J) a representative of a statewide organization
26 representing Illinois police chiefs, appointed by the

1 Director of State Police; and

2 (K) 2 State's Attorneys to be appointed by the
3 members of the Task Force.

4 (c) The Task Force shall submit a written report of its
5 findings and recommendations to the General Assembly on or
6 before January 1, 2017.

7 (d) This Section is repealed on January 1, 2018.

8 Section 110. The Criminal Identification Act is amended by
9 changing Sections 3.1 and 5.2 as follows:

10 (20 ILCS 2630/3.1) (from Ch. 38, par. 206-3.1)

11 Sec. 3.1. (a) The Department may furnish, pursuant to
12 positive identification, records of convictions to the
13 Department of Financial and Professional Regulation for the
14 purpose of meeting registration or licensure requirements
15 under the Private Detective, Private Alarm, Private Security,
16 Fingerprint Vendor, and Locksmith Act of 2004 or the Pharmacy
17 Practice Act.

18 (b) The Department may furnish, pursuant to positive
19 identification, records of convictions to policing bodies of
20 this State for the purpose of assisting local liquor control
21 commissioners in carrying out their duty to refuse to issue
22 licenses to persons specified in paragraphs (4), (5) and (6) of
23 Section 6-2 of the Liquor Control Act of 1934.

24 (c) The Department shall charge an application fee, based

1 on actual costs, for the dissemination of records pursuant to
2 this Section. Fees received for the dissemination of records
3 pursuant to this Section shall be deposited in the State Police
4 Services Fund. The Department is empowered to establish this
5 fee and to prescribe the form and manner for requesting and
6 furnishing conviction information pursuant to this Section.

7 (d) Any dissemination of any information obtained pursuant
8 to this Section to any person not specifically authorized
9 hereby to receive or use it for the purpose for which it was
10 disseminated shall constitute a violation of Section 7.

11 (Source: P.A. 95-613, eff. 9-11-07.)

12 (20 ILCS 2630/5.2)

13 Sec. 5.2. Expungement and sealing.

14 (a) General Provisions.

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

18 (A) The following terms shall have the meanings
19 ascribed to them in the Unified Code of Corrections,
20 730 ILCS 5/5-1-2 through 5/5-1-22:

21 (i) Business Offense (730 ILCS 5/5-1-2),

22 (ii) Charge (730 ILCS 5/5-1-3),

23 (iii) Court (730 ILCS 5/5-1-6),

24 (iv) Defendant (730 ILCS 5/5-1-7),

25 (v) Felony (730 ILCS 5/5-1-9),

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

11 (B) As used in this Section, "charge not initiated
12 by arrest" means a charge (as defined by 730 ILCS
13 5/5-1-3) brought against a defendant where the
14 defendant is not arrested prior to or as a direct
15 result of the charge.

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

1 unsatisfactorily is a conviction, unless the
2 unsatisfactory termination is reversed, vacated, or
3 modified and the judgment of conviction, if any, is
4 reversed or vacated.

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

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

20 (F) As used in this Section, "last sentence" means
21 the sentence, order of supervision, or order of
22 qualified probation (as defined by subsection
23 (a) (1) (J)), for a criminal offense (as defined by
24 subsection (a) (1) (D)) that terminates last in time in
25 any jurisdiction, regardless of whether the petitioner
26 has included the criminal offense for which the

1 sentence or order of supervision or qualified
2 probation was imposed in his or her petition. If
3 multiple sentences, orders of supervision, or orders
4 of qualified probation terminate on the same day and
5 are last in time, they shall be collectively considered
6 the "last sentence" regardless of whether they were
7 ordered to run concurrently.

8 (G) "Minor traffic offense" means a petty offense,
9 business offense, or Class C misdemeanor under the
10 Illinois Vehicle Code or a similar provision of a
11 municipal or local ordinance.

12 (H) "Municipal ordinance violation" means an
13 offense defined by a municipal or local ordinance that
14 is criminal in nature and with which the petitioner was
15 charged or for which the petitioner was arrested and
16 released without charging.

17 (I) "Petitioner" means an adult or a minor
18 prosecuted as an adult who has applied for relief under
19 this Section.

20 (J) "Qualified probation" means an order of
21 probation under Section 10 of the Cannabis Control Act,
22 Section 410 of the Illinois Controlled Substances Act,
23 Section 70 of the Methamphetamine Control and
24 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
25 of the Unified Code of Corrections, Section
26 12-4.3(b) (1) and (2) of the Criminal Code of 1961 (as

1 those provisions existed before their deletion by
2 Public Act 89-313), Section 10-102 of the Illinois
3 Alcoholism and Other Drug Dependency Act, Section
4 40-10 of the Alcoholism and Other Drug Abuse and
5 Dependency Act, or Section 10 of the Steroid Control
6 Act. For the purpose of this Section, "successful
7 completion" of an order of qualified probation under
8 Section 10-102 of the Illinois Alcoholism and Other
9 Drug Dependency Act and Section 40-10 of the Alcoholism
10 and Other Drug Abuse and Dependency Act means that the
11 probation was terminated satisfactorily and the
12 judgment of conviction was vacated.

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

23 (L) "Sexual offense committed against a minor"
24 includes but is not limited to the offenses of indecent
25 solicitation of a child or criminal sexual abuse when
26 the victim of such offense is under 18 years of age.

1 (M) "Terminate" as it relates to a sentence or
2 order of supervision or qualified probation includes
3 either satisfactory or unsatisfactory termination of
4 the sentence, unless otherwise specified in this
5 Section.

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

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

13 (A) the sealing or expungement of the records of
14 arrests or charges not initiated by arrest that result
15 in an order of supervision for or conviction of: (i)
16 any sexual offense committed against a minor; (ii)
17 Section 11-501 of the Illinois Vehicle Code or a
18 similar provision of a local ordinance; or (iii)
19 Section 11-503 of the Illinois Vehicle Code or a
20 similar provision of a local ordinance, unless the
21 arrest or charge is for a misdemeanor violation of
22 subsection (a) of Section 11-503 or a similar provision
23 of a local ordinance, that occurred prior to the
24 offender reaching the age of 25 years and the offender
25 has no other conviction for violating Section 11-501 or
26 11-503 of the Illinois Vehicle Code or a similar

1 provision of a local ordinance.

2 (B) the sealing or expungement of records of minor
3 traffic offenses (as defined in subsection (a)(1)(G)),
4 unless the petitioner was arrested and released
5 without charging.

6 (C) the sealing of the records of arrests or
7 charges not initiated by arrest which result in an
8 order of supervision or a conviction for the following
9 offenses:

10 (i) offenses included in Article 11 of the
11 Criminal Code of 1961 or the Criminal Code of 2012
12 or a similar provision of a local ordinance, except
13 Section 11-14 of the Criminal Code of 1961 or the
14 Criminal Code of 2012, or a similar provision of a
15 local ordinance;

16 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
17 26-5, or 48-1 of the Criminal Code of 1961 or the
18 Criminal Code of 2012, or a similar provision of a
19 local ordinance;

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

25 (iv) offenses which are Class A misdemeanors
26 under the Humane Care for Animals Act; or

1 (v) any offense or attempted offense that
2 would subject a person to registration under the
3 Sex Offender Registration Act.

4 (D) the sealing of the records of an arrest which
5 results in the petitioner being charged with a felony
6 offense or records of a charge not initiated by arrest
7 for a felony offense unless:

8 (i) the charge is amended to a misdemeanor and
9 is otherwise eligible to be sealed pursuant to
10 subsection (c);

11 (ii) the charge is brought along with another
12 charge as a part of one case and the charge results
13 in acquittal, dismissal, or conviction when the
14 conviction was reversed or vacated, and another
15 charge brought in the same case results in a
16 disposition for a misdemeanor offense that is
17 eligible to be sealed pursuant to subsection (c) or
18 a disposition listed in paragraph (i), (iii), or
19 (iv) of this subsection;

20 (iii) the charge results in first offender
21 probation as set forth in subsection (c) (2) (E);

22 (iv) the charge is for a felony offense listed
23 in subsection (c) (2) (F) or the charge is amended to
24 a felony offense listed in subsection (c) (2) (F);

25 (v) the charge results in acquittal,
26 dismissal, or the petitioner's release without

1 conviction; or

2 (vi) the charge results in a conviction, but
3 the conviction was reversed or vacated.

4 (b) Expungement.

5 (1) A petitioner may petition the circuit court to
6 expunge the records of his or her arrests and charges not
7 initiated by arrest when:

8 (A) He or she has never been convicted of a
9 criminal offense; and

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

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

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

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

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

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

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

1 petitioner has reached the age of 25 years.

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

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

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

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

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

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

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

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

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

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

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

12 (c) Sealing.

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

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

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

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

26 (C) Arrests or charges not initiated by arrest

1 resulting in orders of supervision, including orders
2 of supervision for municipal ordinance violations,
3 successfully completed by the petitioner, unless
4 excluded by subsection (a) (3);

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

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

16 (F) Arrests or charges not initiated by arrest
17 resulting in felony convictions for the following
18 offenses:

19 (i) Class 4 felony convictions for:

20 Prostitution under Section 11-14 of the
21 Criminal Code of 1961 or the Criminal Code of
22 2012.

23 Possession of cannabis under Section 4 of
24 the Cannabis Control Act.

25 Possession with intent to manufacture or
26 deliver cannabis under Section 5 of the

1 Deceptive practices under Section 17-1 of
2 the Criminal Code of 1961 or the Criminal Code
3 of 2012.

4 Forgery under Section 17-3 of the Criminal
5 Code of 1961 or the Criminal Code of 2012.

6 Possession with intent to manufacture or
7 deliver cannabis under Section 5 of the
8 Cannabis Control Act.

9 Possession with intent to manufacture or
10 deliver a controlled substance under Section
11 401 of the Illinois Controlled Substances Act.

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

15 (A) Records identified as eligible under
16 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
17 time.

18 (B) Records identified as eligible under
19 subsection (c)(2)(C) may be sealed (i) 3 years after
20 the termination of petitioner's last sentence (as
21 defined in subsection (a)(1)(F)) if the petitioner has
22 never been convicted of a criminal offense (as defined
23 in subsection (a)(1)(D)); or (ii) 4 years after the
24 termination of the petitioner's last sentence (as
25 defined in subsection (a)(1)(F)) if the petitioner has
26 ever been convicted of a criminal offense (as defined

1 in subsection (a) (1) (D)).

2 (C) Records identified as eligible under
3 subsections (c) (2) (D), (c) (2) (E), and (c) (2) (F) may be
4 sealed 4 years after the termination of the
5 petitioner's last sentence (as defined in subsection
6 (a) (1) (F)).

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

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

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

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

26 (1) Filing the petition. Upon becoming eligible to

1 petition for the expungement or sealing of records under
2 this Section, the petitioner shall file a petition
3 requesting the expungement or sealing of records with the
4 clerk of the court where the arrests occurred or the
5 charges were brought, or both. If arrests occurred or
6 charges were brought in multiple jurisdictions, a petition
7 must be filed in each such jurisdiction. The petitioner
8 shall pay the applicable fee, if not waived.

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

23 (3) Drug test. The petitioner must attach to the
24 petition proof that the petitioner has passed a test taken
25 within 30 days before the filing of the petition showing
26 the absence within his or her body of all illegal

1 substances as defined by the Illinois Controlled
2 Substances Act, the Methamphetamine Control and Community
3 Protection Act, and the Cannabis Control Act if he or she
4 is petitioning to:

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

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

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

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

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

20 (5) Objections.

21 (A) Any party entitled to notice of the petition
22 may file an objection to the petition. All objections
23 shall be in writing, shall be filed with the circuit
24 court clerk, and shall state with specificity the basis
25 of the objection. Whenever a person who has been
26 convicted of an offense is granted a pardon by the

1 Governor which specifically authorizes expungement, an
2 objection to the petition may not be filed.

3 (B) Objections to a petition to expunge or seal
4 must be filed within 60 days of the date of service of
5 the petition.

6 (6) Entry of order.

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

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

20 (7) Hearings. If an objection is filed, the court shall
21 set a date for a hearing and notify the petitioner and all
22 parties entitled to notice of the petition of the hearing
23 date at least 30 days prior to the hearing. Prior to the
24 hearing, the State's Attorney shall consult with the
25 Department as to the appropriateness of the relief sought
26 in the petition to expunge or seal. At the hearing, the

1 court shall hear evidence on whether the petition should or
2 should not be granted, and shall grant or deny the petition
3 to expunge or seal the records based on the evidence
4 presented at the hearing. The court may consider the
5 following:

6 (A) the strength of the evidence supporting the
7 defendant's conviction;

8 (B) the reasons for retention of the conviction
9 records by the State;

10 (C) the petitioner's age, criminal record history,
11 and employment history;

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

15 (E) the specific adverse consequences the
16 petitioner may be subject to if the petition is denied.

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

26 (9) Implementation of order.

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

3 (i) the records shall be expunged (as defined
4 in subsection (a) (1) (E)) by the arresting agency,
5 the Department, and any other agency as ordered by
6 the court, within 60 days of the date of service of
7 the order, 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 (ii) the records of the circuit court clerk
11 shall be impounded until further order of the court
12 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 Department, or the agency
21 receiving such inquiry, shall reply as it does in
22 response to inquiries when no records ever
23 existed.

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

26 (i) the records shall be expunged (as defined

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

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

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

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

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

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

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

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

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

26 (iii) the records shall be impounded by the

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

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

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

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

1 receiving such inquiry shall reply as it does in
2 response to inquiries when no records ever existed.

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

18 (10) Fees. The Department may charge the petitioner a
19 fee equivalent to the cost of processing any order to
20 expunge or seal records. Notwithstanding any provision of
21 the Clerks of Courts Act to the contrary, the circuit court
22 clerk may charge a fee equivalent to the cost associated
23 with the sealing or expungement of records by the circuit
24 court clerk. From the total filing fee collected for the
25 petition to seal or expunge, the circuit court clerk shall
26 deposit \$10 into the Circuit Court Clerk Operation and

1 Administrative Fund, to be used to offset the costs
2 incurred by the circuit court clerk in performing the
3 additional duties required to serve the petition to seal or
4 expunge on all parties. The circuit court clerk shall
5 collect and forward the Department of State Police portion
6 of the fee to the Department and it shall be deposited in
7 the State Police Services Fund.

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 Section

1 shall not be considered void because it fails to comply
2 with the provisions of this Section or because of any error
3 asserted in a motion to vacate, modify, or reconsider. The
4 circuit court retains jurisdiction to determine whether
5 the order is voidable and to vacate, modify, or reconsider
6 its terms based on a motion filed under paragraph (12) of
7 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 notice
11 of the petition must fully comply with the terms of the
12 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 until
23 there is a final order on the motion for relief or, in the
24 case of an appeal, the issuance of that court's mandate.

25 (16) The changes to this subsection (d) made by Public
26 Act 98-163 apply to all petitions pending on August 5, 2013

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

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

1 have access to all sealed records of the Department pertaining
2 to that individual. Upon entry of the order of expungement, the
3 circuit court clerk shall promptly mail a copy of the order to
4 the person who was pardoned.

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

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

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

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

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

25 (Source: P.A. 97-443, eff. 8-19-11; 97-698, eff. 1-1-13;
26 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.

1 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150,
2 eff. 1-25-13; 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
3 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,
4 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;
5 98-1009, eff. 1-1-15; revised 9-30-14.)

6 Section 115. The Health Care Worker Background Check Act is
7 amended by changing Sections 25 and 40 as follows:

8 (225 ILCS 46/25)

9 Sec. 25. Persons ineligible to be hired by health care
10 employers and long-term care facilities.

11 (a) In the discretion of the Director of Public Health, as
12 soon after January 1, 1996, January 1, 1997, January 1, 2006,
13 or October 1, 2007, as applicable, and as is reasonably
14 practical, no health care employer shall knowingly hire,
15 employ, or retain any individual in a position with duties
16 involving direct care for clients, patients, or residents, and
17 no long-term care facility shall knowingly hire, employ, or
18 retain any individual in a position with duties that involve or
19 may involve contact with residents or access to the living
20 quarters or the financial, medical, or personal records of
21 residents, who has been convicted of committing or attempting
22 to commit one or more of the following offenses: those defined
23 in Sections 8-1(b), 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3,
24 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2, 10-3, 10-3.1, 10-4,

1 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6,
2 11-9.1, 11-9.5, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-1,
3 12-2, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2,
4 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13,
5 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32,
6 12-33, 12C-5, 16-1, 16-1.3, 16-25, 16A-3, 17-3, 17-56, 18-1,
7 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 19-6, 20-1, 20-1.1,
8 24-1, 24-1.2, 24-1.5, or 33A-2, or subdivision (a)(4) of
9 Section 11-14.4, or in subsection (a) of Section 12-3 or
10 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
11 of 1961 or the Criminal Code of 2012; those provided in Section
12 4 of the Wrongs to Children Act; those provided in Section 53
13 of the Criminal Jurisprudence Act; ~~those defined in Section 5,~~
14 ~~5.1, 5.2, 7, or 9 of the Cannabis Control Act;~~ those defined in
15 the Methamphetamine Control and Community Protection Act; or
16 those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or
17 407.1 of the Illinois Controlled Substances Act, unless the
18 applicant or employee obtains a waiver pursuant to Section 40.

19 (a-1) In the discretion of the Director of Public Health,
20 as soon after January 1, 2004 or October 1, 2007, as
21 applicable, and as is reasonably practical, no health care
22 employer shall knowingly hire any individual in a position with
23 duties involving direct care for clients, patients, or
24 residents, and no long-term care facility shall knowingly hire
25 any individual in a position with duties that involve or may
26 involve contact with residents or access to the living quarters

1 or the financial, medical, or personal records of residents,
2 who has (i) been convicted of committing or attempting to
3 commit one or more of the offenses defined in Section 12-3.3,
4 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33, 17-34, 17-36,
5 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or
6 24-3.3, or subsection (b) of Section 17-32, subsection (b) of
7 Section 18-1, or subsection (b) of Section 20-1, of the
8 Criminal Code of 1961 or the Criminal Code of 2012; Section 4,
9 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card
10 Act; or Section 11-9.1A of the Criminal Code of 1961 or the
11 Criminal Code of 2012 or Section 5.1 of the Wrongs to Children
12 Act; or (ii) violated Section 50-50 of the Nurse Practice Act,
13 unless the applicant or employee obtains a waiver pursuant to
14 Section 40 of this Act.

15 A health care employer is not required to retain an
16 individual in a position with duties involving direct care for
17 clients, patients, or residents, and no long-term care facility
18 is required to retain an individual in a position with duties
19 that involve or may involve contact with residents or access to
20 the living quarters or the financial, medical, or personal
21 records of residents, who has been convicted of committing or
22 attempting to commit one or more of the offenses enumerated in
23 this subsection.

24 (b) A health care employer shall not hire, employ, or
25 retain any individual in a position with duties involving
26 direct care of clients, patients, or residents, and no

1 long-term care facility shall knowingly hire, employ, or retain
2 any individual in a position with duties that involve or may
3 involve contact with residents or access to the living quarters
4 or the financial, medical, or personal records of residents, if
5 the health care employer becomes aware that the individual has
6 been convicted in another state of committing or attempting to
7 commit an offense that has the same or similar elements as an
8 offense listed in subsection (a) or (a-1), as verified by court
9 records, records from a state agency, or an FBI criminal
10 history record check, unless the applicant or employee obtains
11 a waiver pursuant to Section 40 of this Act. This shall not be
12 construed to mean that a health care employer has an obligation
13 to conduct a criminal history records check in other states in
14 which an employee has resided.

15 (Source: P.A. 96-710, eff. 1-1-10; 96-1551, Article 1, Section
16 930, eff. 7-1-11; 96-1551, Article 2, Section 995, eff. 7-1-11;
17 96-1551, Article 10, Section 10-40, eff. 7-1-11; 97-597, eff.
18 1-1-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150,
19 eff. 1-25-13.)

20 (225 ILCS 46/40)

21 Sec. 40. Waiver.

22 (a) Any student, applicant, or employee listed on the
23 Health Care Worker Registry may request a waiver of the
24 prohibition against employment by:

25 (1) completing a waiver application on a form

1 prescribed by the Department of Public Health;

2 (2) providing a written explanation of each conviction
3 to include (i) what happened, (ii) how many years have
4 passed since the offense, (iii) the individuals involved,
5 (iv) the age of the applicant at the time of the offense,
6 and (v) any other circumstances surrounding the offense;
7 and

8 (3) providing official documentation showing that all
9 fines have been paid, if applicable and except for in the
10 instance of payment of court-imposed fines or restitution
11 in which the applicant is adhering to a payment schedule,
12 and the date probation or parole was satisfactorily
13 completed, if applicable.

14 (b) The applicant may, but is not required to, submit
15 employment and character references and any other evidence
16 demonstrating the ability of the applicant or employee to
17 perform the employment responsibilities competently and
18 evidence that the applicant or employee does not pose a threat
19 to the health or safety of residents, patients, or clients.

20 (c) The Department of Public Health must inform health care
21 employers if a waiver is being sought by entering a record on
22 the Health Care Worker Registry that a waiver is pending and
23 must act upon the waiver request within 30 days of receipt of
24 all necessary information, as defined by rule. Except in cases
25 where a rehabilitation waiver is granted, a letter shall be
26 sent to the applicant notifying the applicant that he or she

1 has received an automatic waiver.

2 (d) An individual shall not be employed from the time that
3 the employer receives a notification from the Department of
4 Public Health based upon the results of a fingerprint-based
5 criminal history records check containing disqualifying
6 conditions until the time that the individual receives a
7 waiver.

8 (e) The entity responsible for inspecting, licensing,
9 certifying, or registering the health care employer and the
10 Department of Public Health shall be immune from liability for
11 any waivers granted under this Section.

12 (f) A health care employer is not obligated to employ or
13 offer permanent employment to an applicant, or to retain an
14 employee who is granted a waiver under this Section.

15 (g) The Department of Public Health shall not include
16 information on the Health Care Worker Registry that an
17 individual has received a waiver so long as there is an
18 indication that the individual is eligible to work.

19 (Source: P.A. 95-120, eff. 8-13-07; 95-545, eff. 8-28-07;
20 95-876, eff. 8-21-08; 96-565, eff. 8-18-09.)

21 Section 120. The Pharmacy Practice Act is amended by
22 changing Sections 6, 9, and 9.5 as follows:

23 (225 ILCS 85/6) (from Ch. 111, par. 4126)

24 (Section scheduled to be repealed on January 1, 2018)

1 Sec. 6. Each individual seeking licensure as a registered
2 pharmacist shall make application to the Department and shall
3 provide evidence of the following:

4 1. that he or she is a United States citizen or legally
5 admitted alien;

6 2. that he or she has not engaged in conduct or behavior
7 determined to be grounds for discipline under this Act;

8 3. that he or she is a graduate of a first professional
9 degree program in pharmacy of a university recognized and
10 approved by the Department;

11 4. that he or she has successfully completed a program of
12 practice experience under the direct supervision of a
13 pharmacist in a pharmacy in this State, or in any other State;
14 ~~and~~

15 5. that he or she has passed an examination recommended by
16 the Board of Pharmacy and authorized by the Department; ~~and~~ -

17 6. that he or she has submitted his or her fingerprints to
18 the Department of State Police in the form and manner
19 prescribed by the Department of State Police; these
20 fingerprints shall be transmitted through a live scan
21 fingerprint vendor licensed by the Department and shall be
22 checked against the fingerprint records now and hereafter filed
23 in the Department of State Police and Federal Bureau of
24 Investigation criminal history records databases; the
25 Department of State Police shall charge a fee for conducting
26 the criminal history records check, which shall be deposited

1 into the State Police Services Fund and shall not exceed the
2 actual cost of the State and national criminal history records
3 check; the Department of State Police shall furnish, pursuant
4 to positive identification, all Illinois conviction
5 information and national criminal history records information
6 to the Department; the Department may adopt any rules necessary
7 to implement this subsection 6.

8 The Department shall issue a license as a registered
9 pharmacist to any applicant who has qualified as aforesaid and
10 who has filed the required applications and paid the required
11 fees in connection therewith; and such registrant shall have
12 the authority to practice the profession of pharmacy in this
13 State.

14 (Source: P.A. 95-689, eff. 10-29-07.)

15 (225 ILCS 85/9) (from Ch. 111, par. 4129)

16 (Section scheduled to be repealed on January 1, 2018)

17 Sec. 9. Registration as pharmacy technician. Any person
18 shall be entitled to registration as a registered pharmacy
19 technician who is of the age of 16 or over, has not engaged in
20 conduct or behavior determined to be grounds for discipline
21 under this Act, is attending or has graduated from an
22 accredited high school or comparable school or educational
23 institution or received a high school equivalency certificate,
24 ~~and~~ has filed a written application for registration on a form
25 to be prescribed and furnished by the Department for that

1 purpose, and has submitted his or her fingerprints to the
2 Department of State Police in the form and manner prescribed by
3 the Department of State Police. These fingerprints shall be
4 transmitted through a live scan fingerprint vendor licensed by
5 the Department and shall be checked against the fingerprint
6 records now and hereafter filed in the Department of State
7 Police and Federal Bureau of Investigation criminal history
8 records databases. The Department of State Police shall charge
9 a fee for conducting the criminal history records check, which
10 shall be deposited into the State Police Services Fund and
11 shall not exceed the actual cost of the State and national
12 criminal history records check. The Department of State Police
13 shall furnish, pursuant to positive identification, all
14 Illinois conviction information and national criminal history
15 records information to the Department. The Department may adopt
16 any rules necessary to implement the background checks required
17 under this Section. The Department shall issue a certificate of
18 registration as a registered pharmacy technician to any
19 applicant who has qualified as aforesaid, and such registration
20 shall be the sole authority required to assist licensed
21 pharmacists in the practice of pharmacy, under the supervision
22 of a licensed pharmacist. A registered pharmacy technician may,
23 under the supervision of a pharmacist, assist in the practice
24 of pharmacy and perform such functions as assisting in the
25 dispensing process, offering counseling, receiving new verbal
26 prescription orders, and having prescriber contact concerning

1 prescription drug order clarification. A registered pharmacy
2 technician may not engage in patient counseling, drug regimen
3 review, or clinical conflict resolution.

4 Beginning on January 1, 2010, within 2 years after initial
5 registration as a registered technician, a pharmacy technician
6 must become certified by successfully passing the Pharmacy
7 Technician Certification Board (PTCB) examination or another
8 Board-approved pharmacy technician examination and register as
9 a certified pharmacy technician with the Department in order to
10 continue to perform pharmacy technician's duties. This
11 requirement does not apply to pharmacy technicians registered
12 prior to January 1, 2008.

13 Any person registered as a pharmacy technician who is also
14 enrolled in a first professional degree program in pharmacy in
15 a school or college of pharmacy or a department of pharmacy of
16 a university approved by the Department or has graduated from
17 such a program within the last 18 months, shall be considered a
18 "student pharmacist" and entitled to use the title "student
19 pharmacist". A student pharmacist must meet all of the
20 requirements for registration as a pharmacy technician set
21 forth in this Section excluding the requirement of
22 certification prior to the second registration renewal and pay
23 the required pharmacy technician registration fees. A student
24 pharmacist may, under the supervision of a pharmacist, assist
25 in the practice of pharmacy and perform any and all functions
26 delegated to him or her by the pharmacist.

1 Any person seeking licensure as a pharmacist who has
2 graduated from a pharmacy program outside the United States
3 must register as a pharmacy technician and shall be considered
4 a "student pharmacist" and be entitled to use the title
5 "student pharmacist" while completing the 1,200 clinical hours
6 of training approved by the Board of Pharmacy described and for
7 no more than 18 months after completion of these hours. These
8 individuals are not required to become certified pharmacy
9 technicians while completing their Board approved clinical
10 training, but must become licensed as a pharmacist or become a
11 certified pharmacy technician before the second pharmacy
12 technician registration renewal following completion of the
13 Board approved clinical training.

14 The Department shall not renew the pharmacy technician
15 license of any person who has been registered as a "student
16 pharmacist" and has dropped out of or been expelled from an
17 ACPE accredited college of pharmacy, who has failed to complete
18 his or her 1,200 hours of Board approved clinical training
19 within 24 months or who has failed the pharmacist licensure
20 examination 3 times and shall require these individuals to meet
21 the requirements of and become registered a certified pharmacy
22 technician.

23 The Department may take any action set forth in Section 30
24 of this Act with regard to registrations pursuant to this
25 Section.

26 Any person who is enrolled in a non-traditional Pharm.D.

1 program at an ACPE accredited college of pharmacy and is a
2 licensed pharmacist under the laws of another United States
3 jurisdiction shall be permitted to engage in the program of
4 practice experience required in the academic program by virtue
5 of such license. Such person shall be exempt from the
6 requirement of registration as a registered pharmacy
7 technician while engaged in the program of practice experience
8 required in the academic program.

9 An applicant for registration as a pharmacy technician may
10 assist a pharmacist in the practice of pharmacy for a period of
11 up to 60 days prior to the issuance of a certificate of
12 registration if the applicant has submitted the required fee
13 and an application for registration to the Department. The
14 applicant shall keep a copy of the submitted application on the
15 premises where the applicant is assisting in the practice of
16 pharmacy. The Department shall forward confirmation of receipt
17 of the application with start and expiration dates of practice
18 pending registration.

19 (Source: P.A. 98-718, eff. 1-1-15.)

20 (225 ILCS 85/9.5)

21 (Section scheduled to be repealed on January 1, 2018)

22 Sec. 9.5. Certified pharmacy technician.

23 (a) An individual registered as a pharmacy technician under
24 this Act may be registered as a certified pharmacy technician,
25 if he or she meets all of the following requirements:

1 (1) He or she has submitted a written application in
2 the form and manner prescribed by the Department.

3 (2) He or she has attained the age of 18.

4 (3) He or she is of good moral character, as determined
5 by the Department.

6 (4) He or she has (i) graduated from pharmacy
7 technician training meeting the requirements set forth in
8 subsection (a) of Section 17.1 of this Act or (ii) obtained
9 documentation from the pharmacist-in-charge of the
10 pharmacy where the applicant is employed verifying that he
11 or she has successfully completed a training program and
12 has successfully completed an objective assessment
13 mechanism prepared in accordance with rules established by
14 the Department.

15 (5) He or she has successfully passed an examination
16 accredited by the National Organization of Certifying
17 Agencies, as approved and required by the Board.

18 (6) He or she has paid the required certification fees.

19 (7) He or she has submitted his or her fingerprints to
20 the Department of State Police in the form and manner
21 prescribed by the Department of State Police. These
22 fingerprints shall be transmitted through a live scan
23 fingerprint vendor licensed by the Department and shall be
24 checked against the fingerprint records now and hereafter
25 filed in the Department of State Police and Federal Bureau
26 of Investigation criminal history records databases. The

1 Department of State Police shall charge a fee for
2 conducting the criminal history records check, which shall
3 be deposited into the State Police Services Fund and shall
4 not exceed the actual cost of the State and national
5 criminal history records check. The Department of State
6 Police shall furnish, pursuant to positive identification,
7 all Illinois conviction information and national criminal
8 history records information to the Department. The
9 Department may adopt any rules necessary to implement this
10 paragraph (7).

11 (b) No pharmacist whose license has been denied, revoked,
12 suspended, or restricted for disciplinary purposes may be
13 eligible to be registered as a certified pharmacy technician.

14 (c) The Department may, by rule, establish any additional
15 requirements for certification under this Section.

16 (d) A person who is not a registered pharmacy technician
17 and meets the requirements of this Section may register as a
18 certified pharmacy technician without first registering as a
19 pharmacy technician.

20 (Source: P.A. 95-689, eff. 10-29-07; 96-673, eff. 1-1-10.)

21 Section 125. The Criminal Code of 2012 is amended by
22 changing Section 33G-9 as follows:

23 (720 ILCS 5/33G-9)

24 (Section scheduled to be repealed on June 11, 2017)

1 Sec. 33G-9. Repeal. This Article is repealed on June 11,
2 2019 ~~5 years after it becomes law.~~

3 (Source: P.A. 97-686, eff. 6-11-12.)

4 Section 130. The Cannabis Control Act is amended by
5 changing Section 5.2 as follows:

6 (720 ILCS 550/5.2) (from Ch. 56 1/2, par. 705.2)

7 Sec. 5.2. Delivery of cannabis on school grounds.

8 (a) Any person who violates subsection (e) of Section 5 in
9 any school, on the real property comprising any school, or any
10 conveyance owned, leased or contracted by a school to transport
11 students to or from school or a school related activity, or on
12 any public way within 1,000 feet of the real property
13 comprising any school, or any conveyance owned, leased or
14 contracted by a school to transport students to or from school
15 or a school related activity, and at the time of the violation
16 persons under the age 18 are present, other than the person who
17 committed the offense, the offense is committed during school
18 hours, or the offense is committed at times when persons under
19 the age of 18 are reasonably expected to be present in the
20 school, in the conveyance, on the real property, or on the
21 public way, such as when after-school activities are occurring,
22 is guilty of a Class 1 felony, the fine for which shall not
23 exceed \$200,000;

24 (b) Any person who violates subsection (d) of Section 5 in

1 any school, on the real property comprising any school, or any
2 conveyance owned, leased or contracted by a school to transport
3 students to or from school or a school related activity, or on
4 any public way within 1,000 feet of the real property
5 comprising any school, or any conveyance owned, leased or
6 contracted by a school to transport students to or from school
7 or a school related activity, and at the time of the violation
8 persons under the age 18 are present, other than the person who
9 committed the offense, the offense is committed during school
10 hours, or the offense is committed at times when persons under
11 the age of 18 are reasonably expected to be present in the
12 school, in the conveyance, on the real property, or on the
13 public way, such as when after-school activities are occurring,
14 is guilty of a Class 2 felony, the fine for which shall not
15 exceed \$100,000;

16 (c) Any person who violates subsection (c) of Section 5 in
17 any school, on the real property comprising any school, or any
18 conveyance owned, leased or contracted by a school to transport
19 students to or from school or a school related activity, or on
20 any public way within 1,000 feet of the real property
21 comprising any school, or any conveyance owned, leased or
22 contracted by a school to transport students to or from school
23 or a school related activity, and at the time of the violation
24 persons under the age 18 are present, other than the person who
25 committed the offense, the offense is committed during school
26 hours, or the offense is committed at times when persons under

1 the age of 18 are reasonably expected to be present in the
2 school, in the conveyance, on the real property, or on the
3 public way, such as when after-school activities are occurring,
4 is guilty of a Class 3 felony, the fine for which shall not
5 exceed \$50,000;

6 (d) Any person who violates subsection (b) of Section 5 in
7 any school, on the real property comprising any school, or any
8 conveyance owned, leased or contracted by a school to transport
9 students to or from school or a school related activity, or on
10 any public way within 1,000 feet of the real property
11 comprising any school, or any conveyance owned, leased or
12 contracted by a school to transport students to or from school
13 or a school related activity, and at the time of the violation
14 persons under the age 18 are present, other than the person who
15 committed the offense, the offense is committed during school
16 hours, or the offense is committed at times when persons under
17 the age of 18 are reasonably expected to be present in the
18 school, in the conveyance, on the real property, or on the
19 public way, such as when after-school activities are occurring,
20 is guilty of a Class 4 felony, the fine for which shall not
21 exceed \$25,000;

22 (e) Any person who violates subsection (a) of Section 5 in
23 any school, on the real property comprising any school, or any
24 conveyance owned, leased or contracted by a school to transport
25 students to or from school or a school related activity, on any
26 public way within 1,000 feet of the real property comprising

1 any school, or any conveyance owned, leased or contracted by a
2 school to transport students to or from school or a school
3 related activity, and at the time of the violation persons
4 under the age 18 are present, other than the person who
5 committed the offense, the offense is committed during school
6 hours, or the offense is committed at times when persons under
7 the age of 18 are reasonably expected to be present in the
8 school, in the conveyance, on the real property, or on the
9 public way, such as when after-school activities are occurring,
10 is guilty of a Class A misdemeanor.

11 (Source: P.A. 87-544.)

12 Section 135. The Illinois Controlled Substances Act is
13 amended by changing Section 407 as follows:

14 (720 ILCS 570/407) (from Ch. 56 1/2, par. 1407)

15 Sec. 407. (a) (1) (A) Any person 18 years of age or over who
16 violates any subsection of Section 401 or subsection (b) of
17 Section 404 by delivering a controlled, counterfeit or
18 look-alike substance to a person under 18 years of age may be
19 sentenced to imprisonment for a term up to twice the maximum
20 term and fined an amount up to twice that amount otherwise
21 authorized by the pertinent subsection of Section 401 and
22 Subsection (b) of Section 404.

23 (B) (Blank).

24 (2) Except as provided in paragraph (3) of this subsection,

1 any person who violates:

2 (A) subsection (c) of Section 401 by delivering or
3 possessing with intent to deliver a controlled,
4 counterfeit, or look-alike substance in or on, or within
5 1,000 feet of, a truck stop or safety rest area, is guilty
6 of a Class 1 felony, the fine for which shall not exceed
7 \$250,000;

8 (B) subsection (d) of Section 401 by delivering or
9 possessing with intent to deliver a controlled,
10 counterfeit, or look-alike substance in or on, or within
11 1,000 feet of, a truck stop or safety rest area, is guilty
12 of a Class 2 felony, the fine for which shall not exceed
13 \$200,000;

14 (C) subsection (e) of Section 401 or subsection (b) of
15 Section 404 by delivering or possessing with intent to
16 deliver a controlled, counterfeit, or look-alike substance
17 in or on, or within 1,000 feet of, a truck stop or safety
18 rest area, is guilty of a Class 3 felony, the fine for
19 which shall not exceed \$150,000;

20 (D) subsection (f) of Section 401 by delivering or
21 possessing with intent to deliver a controlled,
22 counterfeit, or look-alike substance in or on, or within
23 1,000 feet of, a truck stop or safety rest area, is guilty
24 of a Class 3 felony, the fine for which shall not exceed
25 \$125,000;

26 (E) subsection (g) of Section 401 by delivering or

1 possessing with intent to deliver a controlled,
2 counterfeit, or look-alike substance in or on, or within
3 1,000 feet of, a truck stop or safety rest area, is guilty
4 of a Class 3 felony, the fine for which shall not exceed
5 \$100,000;

6 (F) subsection (h) of Section 401 by delivering or
7 possessing with intent to deliver a controlled,
8 counterfeit, or look-alike substance in or on, or within
9 1,000 feet of, a truck stop or safety rest area, is guilty
10 of a Class 3 felony, the fine for which shall not exceed
11 \$75,000;

12 (3) Any person who violates paragraph (2) of this
13 subsection (a) by delivering or possessing with intent to
14 deliver a controlled, counterfeit, or look-alike substance in
15 or on, or within 1,000 feet of a truck stop or a safety rest
16 area, following a prior conviction or convictions of paragraph
17 (2) of this subsection (a) may be sentenced to a term of
18 imprisonment up to 2 times the maximum term and fined an amount
19 up to 2 times the amount otherwise authorized by Section 401.

20 (4) For the purposes of this subsection (a):

21 (A) "Safety rest area" means a roadside facility
22 removed from the roadway with parking and facilities
23 designed for motorists' rest, comfort, and information
24 needs; and

25 (B) "Truck stop" means any facility (and its parking
26 areas) used to provide fuel or service, or both, to any

1 commercial motor vehicle as defined in Section 18b-101 of
2 the Illinois Vehicle Code.

3 (b) Any person who violates:

4 (1) subsection (c) of Section 401 is guilty of a Class
5 X felony the fine for which shall not exceed \$500,000 if he
6 or she commits the violation:

7 (A) in any school, or any conveyance owned, leased
8 or contracted by a school to transport students to or
9 from school or a school related activity, or on the
10 real property comprising any school, or within 1,000
11 feet of the real property comprising any school, and at
12 the time of the violation persons under the age 18 are
13 present, other than the person who committed the
14 offense, the offense is committed during school hours,
15 or the offense is committed at times when persons under
16 the age of 18 are reasonably expected to be present in
17 the school, in the conveyance, or on the real property,
18 such as when after-school activities are occurring,

19 (B) on residential property owned, operated or
20 managed by a public housing agency or leased by a
21 public housing agency as part of a scattered site or
22 mixed-income development, or public park, on the real
23 property comprising any ~~school or~~ residential property
24 owned, operated or managed by a public housing agency
25 or leased by a public housing agency as part of a
26 scattered site or mixed-income development, or public

1 park or within 1,000 feet of the real property
2 comprising any ~~school or~~ residential property owned,
3 operated or managed by a public housing agency or
4 leased by a public housing agency as part of a
5 scattered site or mixed-income development, or public
6 park,

7 (C) on the real property comprising any church,
8 synagogue, or other building, structure, or place used
9 primarily for religious worship, or within 1,000 feet
10 of the real property comprising any church, synagogue,
11 or other building, structure, or place used primarily
12 for religious worship, or

13 (D) on the real property comprising any of the
14 following places, buildings, or structures used
15 primarily for housing or providing space for
16 activities for senior citizens: nursing homes,
17 assisted-living centers, senior citizen housing
18 complexes, or senior centers oriented toward daytime
19 activities, or within 1,000 feet of the real property
20 comprising any of the following places, buildings, or
21 structures used primarily for housing or providing
22 space for activities for senior citizens: nursing
23 homes, assisted-living centers, senior citizen housing
24 complexes, or senior centers oriented toward daytime
25 activities ~~is guilty of a Class X felony, the fine for~~
26 ~~which shall not exceed \$500,000;~~

1 (2) subsection (d) of Section 401 is guilty of a Class
2 1 felony the fine for which shall not exceed \$250,000 if he
3 or she commits the violation:

4 (A) in any school, or any conveyance owned, leased
5 or contracted by a school to transport students to or
6 from school or a school related activity, or on the
7 real property comprising any school, or within 1,000
8 feet of the real property comprising any school, and at
9 the time of the violation persons under the age 18 are
10 present, other than the person who committed the
11 offense, the offense is committed during school hours,
12 or the offense is committed at times when persons under
13 the age of 18 are reasonably expected to be present in
14 the school, in the conveyance, or on the real property,
15 such as when after-school activities are occurring,

16 (B) on residential property owned, operated or
17 managed by a public housing agency or leased by a
18 public housing agency as part of a scattered site or
19 mixed-income development, or public park, on the real
20 property comprising any ~~school or~~ residential property
21 owned, operated or managed by a public housing agency
22 or leased by a public housing agency as part of a
23 scattered site or mixed-income development, or public
24 park or within 1,000 feet of the real property
25 comprising any ~~school or~~ residential property owned,
26 operated or managed by a public housing agency or

1 leased by a public housing agency as part of a
2 scattered site or mixed-income development, or public
3 park,

4 (C) on the real property comprising any church,
5 synagogue, or other building, structure, or place used
6 primarily for religious worship, or within 1,000 feet
7 of the real property comprising any church, synagogue,
8 or other building, structure, or place used primarily
9 for religious worship, or

10 (D) on the real property comprising any of the
11 following places, buildings, or structures used
12 primarily for housing or providing space for
13 activities for senior citizens: nursing homes,
14 assisted-living centers, senior citizen housing
15 complexes, or senior centers oriented toward daytime
16 activities, or within 1,000 feet of the real property
17 comprising any of the following places, buildings, or
18 structures used primarily for housing or providing
19 space for activities for senior citizens: nursing
20 homes, assisted-living centers, senior citizen housing
21 complexes, or senior centers oriented toward daytime
22 activities ~~is guilty of a Class 1 felony, the fine for~~
23 ~~which shall not exceed \$250,000;~~

24 (3) subsection (e) of Section 401 or Subsection (b) of
25 Section 404 is guilty of a Class 2 felony the fine for
26 which shall not exceed \$200,000 if he or she commits the

1 violation:

2 (A) in any school, or any conveyance owned, leased
3 or contracted by a school to transport students to or
4 from school or a school related activity, or on the
5 real property comprising any school, or within 1,000
6 feet of the real property comprising any school, and at
7 the time of the violation persons under the age 18 are
8 present, other than the person who committed the
9 offense, the offense is committed during school hours,
10 or the offense is committed at times when persons under
11 the age of 18 are reasonably expected to be present in
12 the school, in the conveyance, or on the real property,
13 such as when after-school activities are occurring,

14 (B) on residential property owned, operated or
15 managed by a public housing agency or leased by a
16 public housing agency as part of a scattered site or
17 mixed-income development, or public park, on the real
18 property comprising any ~~school or~~ residential property
19 owned, operated or managed by a public housing agency
20 or leased by a public housing agency as part of a
21 scattered site or mixed-income development, or public
22 park or within 1,000 feet of the real property
23 comprising any ~~school or~~ residential property owned,
24 operated or managed by a public housing agency or
25 leased by a public housing agency as part of a
26 scattered site or mixed-income development, or public

1 park,

2 (C) on the real property comprising any church,
3 synagogue, or other building, structure, or place used
4 primarily for religious worship, or within 1,000 feet
5 of the real property comprising any church, synagogue,
6 or other building, structure, or place used primarily
7 for religious worship, or

8 (D) on the real property comprising any of the
9 following places, buildings, or structures used
10 primarily for housing or providing space for
11 activities for senior citizens: nursing homes,
12 assisted-living centers, senior citizen housing
13 complexes, or senior centers oriented toward daytime
14 activities, or within 1,000 feet of the real property
15 comprising any of the following places, buildings, or
16 structures used primarily for housing or providing
17 space for activities for senior citizens: nursing
18 homes, assisted-living centers, senior citizen housing
19 complexes, or senior centers oriented toward daytime
20 activities ~~is guilty of a Class 2 felony, the fine for~~
21 ~~which shall not exceed \$200,000;~~

22 (4) subsection (f) of Section 401 is guilty of a Class
23 2 felony the fine for which shall not exceed \$150,000 if he
24 or she commits the violation:

25 (A) in any school, or any conveyance owned, leased
26 or contracted by a school to transport students to or

1 from school or a school related activity, or on the
2 real property comprising any school, or within 1,000
3 feet of the real property comprising any school, and at
4 the time of the violation persons under the age 18 are
5 present, other than the person who committed the
6 offense, the offense is committed during school hours,
7 or the offense is committed at times when persons under
8 the age of 18 are reasonably expected to be present in
9 the school, in the conveyance, or on the real property,
10 such as when after-school activities are occurring,

11 (B) on residential property owned, operated or
12 managed by a public housing agency or leased by a
13 public housing agency as part of a scattered site or
14 mixed-income development, or public park, on the real
15 property comprising any ~~school or~~ residential property
16 owned, operated or managed by a public housing agency
17 or leased by a public housing agency as part of a
18 scattered site or mixed-income development, or public
19 park or within 1,000 feet of the real property
20 comprising any ~~school or~~ residential property owned,
21 operated or managed by a public housing agency or
22 leased by a public housing agency as part of a
23 scattered site or mixed-income development, or public
24 park,

25 (C) on the real property comprising any church,
26 synagogue, or other building, structure, or place used

1 primarily for religious worship, or within 1,000 feet
2 of the real property comprising any church, synagogue,
3 or other building, structure, or place used primarily
4 for religious worship, or

5 (D) on the real property comprising any of the
6 following places, buildings, or structures used
7 primarily for housing or providing space for
8 activities for senior citizens: nursing homes,
9 assisted-living centers, senior citizen housing
10 complexes, or senior centers oriented toward daytime
11 activities, or within 1,000 feet of the real property
12 comprising any of the following places, buildings, or
13 structures used primarily for housing or providing
14 space for activities for senior citizens: nursing
15 homes, assisted-living centers, senior citizen housing
16 complexes, or senior centers oriented toward daytime
17 activities ~~is guilty of a Class 2 felony, the fine for~~
18 ~~which shall not exceed \$150,000;~~

19 (5) subsection (g) of Section 401 is guilty of a Class
20 2 felony the fine for which shall not exceed \$125,000 if he
21 or she commits the violation:

22 (A) in any school, or any conveyance owned, leased
23 or contracted by a school to transport students to or
24 from school or a school related activity, or on the
25 real property comprising any school, or within 1,000
26 feet of the real property comprising any school, and at

1 the time of the violation persons under the age 18 are
2 present, other than the person who committed the
3 offense, the offense is committed during school hours,
4 or the offense is committed at times when persons under
5 the age of 18 are reasonably expected to be present in
6 the school, in the conveyance, or on the real property,
7 such as when after-school activities are occurring,

8 (B) on residential property owned, operated or
9 managed by a public housing agency or leased by a
10 public housing agency as part of a scattered site or
11 mixed-income development, or public park, on the real
12 property comprising any ~~school or~~ residential property
13 owned, operated or managed by a public housing agency
14 or leased by a public housing agency as part of a
15 scattered site or mixed-income development, or public
16 park or within 1,000 feet of the real property
17 comprising any ~~school or~~ residential property owned,
18 operated or managed by a public housing agency or
19 leased by a public housing agency as part of a
20 scattered site or mixed-income development, or public
21 park,

22 (C) on the real property comprising any church,
23 synagogue, or other building, structure, or place used
24 primarily for religious worship, or within 1,000 feet
25 of the real property comprising any church, synagogue,
26 or other building, structure, or place used primarily

1 for religious worship, or

2 (D) on the real property comprising any of the
3 following places, buildings, or structures used
4 primarily for housing or providing space for
5 activities for senior citizens: nursing homes,
6 assisted-living centers, senior citizen housing
7 complexes, or senior centers oriented toward daytime
8 activities, or within 1,000 feet of the real property
9 comprising any of the following places, buildings, or
10 structures used primarily for housing or providing
11 space for activities for senior citizens: nursing
12 homes, assisted-living centers, senior citizen housing
13 complexes, or senior centers oriented toward daytime
14 activities ~~is guilty of a Class 2 felony, the fine for~~
15 ~~which shall not exceed \$125,000; or~~ or

16 (6) subsection (h) of Section 401 is guilty of a Class
17 2 felony the fine for which shall not exceed \$100,000 if he
18 or she commits the violation:

19 (A) in any school, or any conveyance owned, leased
20 or contracted by a school to transport students to or
21 from school or a school related activity, or on the
22 real property comprising any school, or within 1,000
23 feet of the real property comprising any school, and at
24 the time of the violation persons under the age 18 are
25 present, other than the person who committed the
26 offense, the offense is committed during school hours,

1 or the offense is committed at times when persons under
2 the age of 18 are reasonably expected to be present in
3 the school, in the conveyance, or on the real property,
4 such as when after-school activities are occurring,

5 (B) on residential property owned, operated or
6 managed by a public housing agency or leased by a
7 public housing agency as part of a scattered site or
8 mixed-income development, or public park, on the real
9 property comprising any ~~school or~~ residential property
10 owned, operated or managed by a public housing agency
11 or leased by a public housing agency as part of a
12 scattered site or mixed-income development, or public
13 park or within 1,000 feet of the real property
14 comprising any ~~school or~~ residential property owned,
15 operated or managed by a public housing agency or
16 leased by a public housing agency as part of a
17 scattered site or mixed-income development, or public
18 park,

19 (C) on the real property comprising any church,
20 synagogue, or other building, structure, or place used
21 primarily for religious worship, or within 1,000 feet
22 of the real property comprising any church, synagogue,
23 or other building, structure, or place used primarily
24 for religious worship, or

25 (D) on the real property comprising any of the
26 following places, buildings, or structures used

1 primarily for housing or providing space for
2 activities for senior citizens: nursing homes,
3 assisted-living centers, senior citizen housing
4 complexes, or senior centers oriented toward daytime
5 activities, or within 1,000 feet of the real property
6 comprising any of the following places, buildings, or
7 structures used primarily for housing or providing
8 space for activities for senior citizens: nursing
9 homes, assisted-living centers, senior citizen housing
10 complexes, or senior centers oriented toward daytime
11 activities ~~is guilty of a Class 2 felony, the fine for~~
12 ~~which shall not exceed \$100,000.~~

13 (c) (Blank). ~~Regarding penalties prescribed in subsection~~
14 ~~(b) for violations committed in a school or on or within 1,000~~
15 ~~feet of school property, the time of day, time of year and~~
16 ~~whether classes were currently in session at the time of the~~
17 ~~offense is irrelevant.~~

18 (Source: P.A. 93-223, eff. 1-1-04; 94-556, eff. 9-11-05.)

19 Section 140. The Methamphetamine Control and Community
20 Protection Act is amended by changing Section 55 as follows:

21 (720 ILCS 646/55)

22 Sec. 55. Methamphetamine delivery.

23 (a) Delivery or possession with intent to deliver
24 methamphetamine or a substance containing methamphetamine.

1 (1) It is unlawful knowingly to engage in the delivery
2 or possession with intent to deliver methamphetamine or a
3 substance containing methamphetamine.

4 (2) A person who violates paragraph (1) of this
5 subsection (a) is subject to the following penalties:

6 (A) A person who delivers or possesses with intent
7 to deliver less than 5 grams of methamphetamine or a
8 substance containing methamphetamine is guilty of a
9 Class 2 felony.

10 (B) A person who delivers or possesses with intent
11 to deliver 5 or more grams but less than 15 grams of
12 methamphetamine or a substance containing
13 methamphetamine is guilty of a Class 1 felony.

14 (C) A person who delivers or possesses with intent
15 to deliver 15 or more grams but less than 100 grams of
16 methamphetamine or a substance containing
17 methamphetamine is guilty of a Class X felony, subject
18 to a term of imprisonment of not less than 6 years and
19 not more than 30 years, and subject to a fine not to
20 exceed \$100,000 or the street value of the
21 methamphetamine, whichever is greater.

22 (D) A person who delivers or possesses with intent
23 to deliver 100 or more grams but less than 400 grams of
24 methamphetamine or a substance containing
25 methamphetamine is guilty of a Class X felony, subject
26 to a term of imprisonment of not less than 9 years and

1 not more than 40 years, and subject to a fine not to
2 exceed \$200,000 or the street value of the
3 methamphetamine, whichever is greater.

4 (E) A person who delivers or possesses with intent
5 to deliver 400 or more grams but less than 900 grams of
6 methamphetamine or a substance containing
7 methamphetamine is guilty of a Class X felony, subject
8 to a term of imprisonment of not less than 12 years and
9 not more than 50 years, and subject to a fine not to
10 exceed \$300,000 or the street value of the
11 methamphetamine, whichever is greater.

12 (F) A person who delivers or possesses with intent
13 to deliver 900 or more grams of methamphetamine or a
14 substance containing methamphetamine is guilty of a
15 Class X felony, subject to a term of imprisonment of
16 not less than 15 years and not more than 60 years, and
17 subject to a fine not to exceed \$400,000 or the street
18 value of the methamphetamine, whichever is greater.

19 (b) Aggravated delivery or possession with intent to
20 deliver methamphetamine or a substance containing
21 methamphetamine.

22 (1) It is unlawful to engage in the aggravated delivery
23 or possession with intent to deliver methamphetamine or a
24 substance containing methamphetamine. A person engages in
25 the aggravated delivery or possession with intent to
26 deliver methamphetamine or a substance containing

1 methamphetamine when the person violates paragraph (1) of
2 subsection (a) of this Section and:

3 (A) the person is at least 18 years of age and
4 knowingly delivers or possesses with intent to deliver
5 the methamphetamine or substance containing
6 methamphetamine to a person under 18 years of age;

7 (B) the person is at least 18 years of age and
8 knowingly uses, engages, employs, or causes another
9 person to use, engage, or employ a person under 18
10 years of age to deliver the methamphetamine or
11 substance containing methamphetamine;

12 (C) the person knowingly delivers or possesses
13 with intent to deliver the methamphetamine or
14 substance containing methamphetamine in any structure
15 or vehicle protected by one or more firearms, explosive
16 devices, booby traps, alarm systems, surveillance
17 systems, guard dogs, or dangerous animals;

18 (D) the person knowingly delivers or possesses
19 with intent to deliver the methamphetamine or
20 substance containing methamphetamine in any school, on
21 any real property comprising any school, or in any
22 conveyance owned, leased, or contracted by a school to
23 transport students to or from school or a
24 school-related activity, and at the time of the
25 violation persons under the age 18 are present, other
26 than the person who committed the offense, the offense

1 is committed during school hours, or the offense is
2 committed at times when persons under the age of 18 are
3 reasonably expected to be present in the school, in the
4 conveyance, or on the real property, such as when
5 after-school activities are occurring;

6 (E) the person delivers or causes another person to
7 deliver the methamphetamine or substance containing
8 methamphetamine to a woman that the person knows to be
9 pregnant; or

10 (F) (blank).

11 (2) A person who violates paragraph (1) of this
12 subsection (b) is subject to the following penalties:

13 (A) A person who delivers or possesses with intent
14 to deliver less than 5 grams of methamphetamine or a
15 substance containing methamphetamine is guilty of a
16 Class 1 felony.

17 (B) A person who delivers or possesses with intent
18 to deliver 5 or more grams but less than 15 grams of
19 methamphetamine or a substance containing
20 methamphetamine is guilty of a Class X felony, subject
21 to a term of imprisonment of not less than 6 years and
22 not more than 30 years, and subject to a fine not to
23 exceed \$100,000 or the street value of the
24 methamphetamine, whichever is greater.

25 (C) A person who delivers or possesses with intent
26 to deliver 15 or more grams but less than 100 grams of

1 methamphetamine or a substance containing
2 methamphetamine is guilty of a Class X felony, subject
3 to a term of imprisonment of not less than 8 years and
4 not more than 40 years, and subject to a fine not to
5 exceed \$200,000 or the street value of the
6 methamphetamine, whichever is greater.

7 (D) A person who delivers or possesses with intent
8 to deliver 100 or more grams of methamphetamine or a
9 substance containing methamphetamine is guilty of a
10 Class X felony, subject to a term of imprisonment of
11 not less than 10 years and not more than 50 years, and
12 subject to a fine not to exceed \$300,000 or the street
13 value of the methamphetamine, whichever is greater.

14 (Source: P.A. 94-556, eff. 9-11-05; 94-830, eff. 6-5-06.)

15 Section 145. The Code of Criminal Procedure of 1963 is
16 amended by changing Section 124A-15 and by adding Section
17 116-2.2 as follows:

18 (725 ILCS 5/116-2.2 new)

19 Sec. 116-2.2. Motion to resentence; statutory penalty
20 reduction.

21 (a) A motion may be filed with the trial court that entered
22 the judgment of conviction in a defendant's case at any time
23 following the entry of a guilty verdict or a finding of guilt
24 for any offense under the Criminal Code of 1961 or the Criminal

1 Code of 2012 or a similar local ordinance by the defendant
2 provided:

3 (1) the motion clearly states the penalty for the
4 offense for which the defendant was found guilty or
5 convicted has been amended or changed and became effective
6 after his or her plea of guilty or conviction, which
7 includes but is not limited to:

8 (A) reduces the minimum or maximum sentence for the
9 offense;

10 (B) grants the court more discretion over the range
11 of penalties available for the offense;

12 (C) the underlying conduct relating to the offense
13 was decriminalized; or

14 (D) other instances in which the penalties
15 associated with the offense or conduct underlying the
16 offense were reduced in any way; and

17 (2) reasonable notice of the motion shall be served
18 upon the State.

19 (b) If the court grants a motion under this Section, it
20 must reduce the penalty imposed on the defendant so that it is
21 consistent with the penalty the defendant would have received
22 if the current law was in effect on the date when the offense
23 was committed and the court may take any additional action it
24 deems appropriate under the circumstances.

1 Sec. 124A-15. Reversal of conviction; refund of fines,
2 fees, and costs.

3 (a) A defendant convicted in a criminal prosecution whose
4 conviction is reversed by a finding of factual innocence in a
5 collateral proceeding such as habeas corpus or post-conviction
6 relief under Article 122 of this Code is not liable for any
7 costs or fees of the court or circuit clerk's office, or for
8 any charge of subsistence while detained in custody. If the
9 defendant has paid any costs, fine, or fees, in the case, a
10 refund of those costs shall be determined by the judge and paid
11 by the clerk of the court. The timing of the refund payment
12 shall be determined by the clerk of the court based upon the
13 availability of funds in the subject fund account ~~the clerk or~~
14 ~~judge shall give him or her a certificate of the payment of~~
15 ~~those costs, fine, or fees with the items of those expenses,~~
16 ~~which, when audited and approved according to law, shall be~~
17 ~~refunded to the defendant.~~

18 (b) To receive a refund under this Section, a defendant
19 must submit a request for the refund to the clerk of the court
20 on a form and in a manner prescribed by the clerk. The
21 defendant must attach to the form an order from the court
22 demonstrating the defendant's right to the refund and the
23 amount of the refund.

24 (Source: P.A. 98-943, eff. 1-1-15.)

25 Section 150. The Unified Code of Corrections is amended by

1 changing Section 5-8-1.2 as follows:

2 (730 ILCS 5/5-8-1.2)

3 Sec. 5-8-1.2. County impact incarceration.

4 (a) Legislative intent. It is the finding of the General
5 Assembly that certain non-violent offenders eligible for
6 sentences of incarceration may benefit from the rehabilitative
7 aspects of a county impact incarceration program. It is the
8 intent of the General Assembly that such programs be
9 implemented as provided by this Section. This Section shall not
10 be construed to allow violent offenders to participate in a
11 county impact incarceration program.

12 (b) Under the direction of the Sheriff and with the
13 approval of the County Board of Commissioners, the Sheriff, in
14 any county with more than 3,000,000 inhabitants, may establish
15 and operate a county impact incarceration program for eligible
16 offenders. If the court finds under Section 5-4-1 that an
17 offender convicted of a felony meets the eligibility
18 requirements of the Sheriff's county impact incarceration
19 program, the court may sentence the offender to the county
20 impact incarceration program. If the court finds a person
21 charged with a felony meets the eligibility requirements of the
22 Sheriff's county impact incarceration program, the court may
23 order the person's participation in the county impact
24 incarceration program. The Sheriff shall be responsible for
25 monitoring all offenders who are sentenced to or ordered to the

1 county impact incarceration program, including the mandatory
2 period of monitored release following the 120 to 180 days of
3 impact incarceration. Offenders assigned to the county impact
4 incarceration program under an intergovernmental agreement
5 between the county and the Illinois Department of Corrections
6 are exempt from the provisions of this mandatory period of
7 monitored release. In the event the convicted offender is not
8 accepted for placement in the county impact incarceration
9 program, the court shall proceed to sentence the offender to
10 any other disposition authorized by this Code. If the offender
11 does not successfully complete the program, the offender's
12 failure to do so shall constitute a violation of the sentence
13 or order to the county impact incarceration program.

14 (c) In order to be eligible to be sentenced to or ordered
15 to a county impact incarceration program by the court, the
16 person shall meet all of the following requirements:

17 (1) the person must be not less than 17 years of age
18 nor more than 35 years of age;

19 (2) The person has not previously participated in the
20 impact incarceration program and has not previously served
21 more than one prior sentence of imprisonment for a felony
22 in an adult correctional facility;

23 (3) The person has not been convicted of a Class X
24 felony, first or second degree murder, armed violence,
25 aggravated kidnapping, criminal sexual assault, aggravated
26 criminal sexual abuse or a subsequent conviction for

1 criminal sexual abuse, forcible detention, or arson and has
2 not been convicted previously of any of those offenses.

3 (4) The person has been found in violation of probation
4 for an offense that is a Class 2, 3, or 4 felony that is not
5 a forcible felony as defined in Section 2-8 of the Criminal
6 Code of 2012 or a violent crime as defined in subsection
7 (c) of Section 3 of the Rights of Crime Victims and
8 Witnesses Act who otherwise could be sentenced to a term of
9 incarceration; or the person is convicted of an offense
10 that is a Class 2, 3, or 4 felony that is not a forcible
11 felony as defined in Section 2-8 of the Criminal Code of
12 2012 or a violent crime as defined in subsection (c) of
13 Section 3 of the Rights of Crime Victims and Witnesses Act
14 who has previously served a sentence of probation for any
15 felony offense and who otherwise could be sentenced to a
16 term of incarceration.

17 (5) The person must be physically able to participate
18 in strenuous physical activities or labor.

19 (6) The person must not have any mental disorder or
20 disability that would prevent participation in a county
21 impact incarceration program.

22 (7) The person was recommended and approved for
23 placement in the county impact incarceration program by the
24 Sheriff and consented in writing to participation in the
25 county impact incarceration program and to the terms and
26 conditions of the program. The Sheriff may consider, among

1 other matters, whether the person has any outstanding
2 detainers or warrants, whether the person has a history of
3 escaping or absconding, whether participation in the
4 county impact incarceration program may pose a risk to the
5 safety or security of any person and whether space is
6 available.

7 (c) The county impact incarceration program shall include,
8 among other matters, mandatory physical training and labor,
9 military formation and drills, regimented activities,
10 uniformity of dress and appearance, education and counseling,
11 including drug counseling where appropriate.

12 (d) Privileges including visitation, commissary, receipt
13 and retention of property and publications and access to
14 television, radio, and a library may be suspended or
15 restricted, notwithstanding provisions to the contrary in this
16 Code.

17 (e) The Sheriff shall issue written rules and requirements
18 for the program. Persons shall be informed of rules of behavior
19 and conduct. Persons participating in the county impact
20 incarceration program shall adhere to all rules and all
21 requirements of the program.

22 (f) Participation in the county impact incarceration
23 program shall be for a period of 120 to 180 days followed by a
24 mandatory term of monitored release for at least 8 months and
25 no more than 12 months supervised by the Sheriff. The period of
26 time a person shall serve in the impact incarceration program

1 shall not be reduced by the accumulation of good time. The
2 court may also sentence the person to a period of probation to
3 commence at the successful completion of the county impact
4 incarceration program.

5 (f-1) Persons who are charged with eligible offenses may be
6 ordered by the court to participate in the county impact
7 incarceration program for the period of 120 to 180 days. If the
8 offender is convicted of the eligible offense, the court may
9 sentence the offender to the remaining days required to
10 complete a total participation period of 120 to 180 days and
11 the mandatory term of monitored release.

12 (g) If the person successfully completes the county impact
13 incarceration program, the Sheriff shall certify the person's
14 successful completion of the program to the court and to the
15 county's State's Attorney. Upon successful completion of the
16 county impact incarceration program and mandatory term of
17 monitored release and if there is an additional period of
18 probation given, the person shall at that time begin his or her
19 probationary sentence under the supervision of the Adult
20 Probation Department.

21 (h) A person may be removed from the county impact
22 incarceration program for a violation of the terms or
23 conditions of the program or in the event he or she is for any
24 reason unable to participate. The failure to complete the
25 program for any reason, including the 8 to 12 month monitored
26 release period, shall be deemed a violation of the county

1 impact incarceration sentence. The Sheriff shall give notice to
2 the State's Attorney of the person's failure to complete the
3 program. The Sheriff shall file a petition for violation of the
4 county impact incarceration sentence with the court and the
5 State's Attorney may proceed on the petition under Section
6 5-6-4 of this Code. The Sheriff shall promulgate rules and
7 regulations governing conduct which could result in removal
8 from the program or in a determination that the person has not
9 successfully completed the program.

10 The mandatory conditions of every county impact
11 incarceration sentence shall include that the person either
12 while in the program or during the period of monitored release:

13 (1) not violate any criminal statute of any
14 jurisdiction;

15 (2) report or appear in person before any such person
16 or agency as directed by the court or the Sheriff;

17 (3) refrain from possessing a firearm or other
18 dangerous weapon;

19 (4) not leave the State without the consent of the
20 court or, in circumstances in which the reason for the
21 absence is of such an emergency nature that prior consent
22 by the court is not possible, without the prior
23 notification and approval of the Sheriff; and

24 (5) permit representatives of the Sheriff to visit at
25 the person's home or elsewhere to the extent necessary for
26 the Sheriff to monitor compliance with the program. Persons

1 shall have access to such rules, which shall provide that a
2 person shall receive notice of any such violation.

3 (i) The Sheriff may terminate the county impact
4 incarceration program at any time.

5 (j) The Sheriff shall report to the county board on or
6 before September 30th of each year on the county impact
7 incarceration program, including the composition of the
8 program by the offenders, by county of commitment, sentence,
9 age, offense, and race.

10 (Source: P.A. 97-1150, eff. 1-25-13.)

11 Section 155. The County Jail Good Behavior Allowance Act is
12 amended by changing Section 3.1 as follows:

13 (730 ILCS 130/3.1) (from Ch. 75, par. 32.1)

14 Sec. 3.1. (a) Within 3 months after the effective date of
15 this amendatory Act of 1986, the wardens who supervise
16 institutions under this Act shall meet and agree upon uniform
17 rules and regulations for behavior and conduct, penalties, and
18 the awarding, denying and revocation of good behavior
19 allowance, in such institutions; and such rules and regulations
20 shall be immediately promulgated and consistent with the
21 provisions of this Act. Interim rules shall be provided by each
22 warden consistent with the provision of this Act and shall be
23 effective until the promulgation of uniform rules. All
24 disciplinary action shall be consistent with the provisions of

1 this Act. Committed persons shall be informed of rules of
2 behavior and conduct, the penalties for violation thereof, and
3 the disciplinary procedure by which such penalties may be
4 imposed. Any rules, penalties and procedures shall be posted
5 and made available to the committed persons.

6 (b) Whenever a person is alleged to have violated a rule of
7 behavior, a written report of the infraction shall be filed
8 with the warden within 72 hours of the occurrence of the
9 infraction or the discovery of it, and such report shall be
10 placed in the file of the institution or facility. No
11 disciplinary proceeding shall be commenced more than 8 days
12 after the infraction or the discovery of it, unless the
13 committed person is unable or unavailable for any reason to
14 participate in the disciplinary proceeding.

15 (c) All or any of the good behavior allowance earned may be
16 revoked by the warden, unless he initiates the charge, and in
17 that case by the disciplinary board, for violations of rules of
18 behavior at any time prior to discharge from the institution,
19 consistent with the provisions of this Act.

20 (d) In disciplinary cases that may involve the loss of good
21 behavior allowance or eligibility to earn good behavior
22 allowance, the warden shall establish disciplinary procedures
23 consistent with the following principles:

24 (1) The warden may establish one or more disciplinary
25 boards, made up of one or more persons, to hear and
26 determine charges. Any person who initiates a disciplinary

1 charge against a committed person shall not serve on the
2 disciplinary board that will determine the disposition of
3 the charge. In those cases in which the charge was
4 initiated by the warden, he shall establish a disciplinary
5 board which will have the authority to impose any
6 appropriate discipline.

7 (2) Any committed person charged with a violation of
8 rules of behavior shall be given notice of the charge,
9 including a statement of the misconduct alleged and of the
10 rules this conduct is alleged to violate, no less than 24
11 hours before the disciplinary hearing.

12 (3) Any committed person charged with a violation of
13 rules is entitled to a hearing on that charge, at which
14 time he shall have an opportunity to appear before and
15 address the warden or disciplinary board deciding the
16 charge.

17 (4) The person or persons determining the disposition
18 of the charge may also summon to testify any witnesses or
19 other persons with relevant knowledge of the incident. The
20 person charged may be permitted to question any person so
21 summoned.

22 (5) If the charge is sustained, the person charged is
23 entitled to a written statement, within 14 days after the
24 hearing, of the decision by the warden or the disciplinary
25 board which determined the disposition of the charge, and
26 the statement shall include the basis for the decision and

1 the disciplinary action, if any, to be imposed.

2 (6) The warden may impose the discipline recommended by
3 the disciplinary board, or may reduce the discipline
4 recommended; however, no committed person may be penalized
5 more than 30 days of good behavior allowance for any one
6 infraction.

7 (7) The warden, in appropriate cases, may restore good
8 behavior allowance that has been revoked, suspended or
9 reduced.

10 (e) The warden, or his or her designee, may revoke the good
11 behavior allowance specified in Section 3 of this Act of an
12 inmate who is sentenced to the Illinois Department of
13 Corrections for misconduct committed by the inmate while in
14 custody of the warden. If an inmate while in custody of the
15 warden is convicted of assault or battery on a peace officer,
16 correctional employee, or another inmate, or for criminal
17 damage to property or for bringing into or possessing
18 contraband in the penal institution in violation of Section
19 31A-1.1 of the Criminal Code of 1961 or the Criminal Code of
20 2012, his or her day for day good behavior allowance shall be
21 revoked for each day such allowance was earned while the inmate
22 was in custody of the warden.

23 (f) If a lawsuit is filed by a person confined in a county
24 jail, whether serving a term of imprisonment or confined
25 pending trial or sentencing, against the sheriff or county, or
26 against any of their officers or employees, and the court makes

1 a specific finding that a pleading, motion, or other paper
2 filed by the prisoner is frivolous, the warden may revoke up to
3 90 days of good behavior allowance under this Act. If the
4 person has not accumulated 90 days of good behavior allowance
5 at the time of the finding, then the warden may revoke all of
6 the good behavior allowance accumulated by the prisoner. For
7 purposes of this subsection (f):

8 "Frivolous" means that a pleading, motion, or other filing
9 which purports to be a legal document filed by a confined
10 person in his or her lawsuit meets any or all of the following
11 criteria:

12 (A) it lacks an arguable basis either in law or in
13 fact;

14 (B) it is being presented for any improper purpose,
15 such as to harass or to cause unnecessary delay or needless
16 increase in the cost of litigation;

17 (C) the claims, defenses, and other legal contentions
18 in it are not warranted by existing law or by a
19 nonfrivolous argument for the extension, modification, or
20 reversal of existing law or the establishment of new law;

21 (D) the allegations and other factual contentions do
22 not have evidentiary support or, if specifically so
23 identified, are not likely to have evidentiary support
24 after a reasonable opportunity for further investigation
25 or discovery; or

26 (E) the denials of factual contentions are not

1 warranted on the evidence, or if specifically so
2 identified, are not reasonably based on a lack of
3 information or belief.

4 "Lawsuit" means a motion under Section 116-3 of the Code of
5 Criminal Procedure of 1963, a habeas corpus action under
6 Article X of the Code of Civil Procedure or under federal law
7 (28 U.S.C. 2254), an action under the federal Civil Rights Act
8 (42 U.S.C. 1983), a second or subsequent petition for
9 post-conviction relief under Article 122 of the Code of
10 Criminal Procedure of 1963 whether filed with or without leave
11 of court, or a second or subsequent petition for relief from
12 judgment under Section 2-1401 of the Code of Civil Procedure.
13 (Source: P.A. 96-495, eff. 1-1-10; 97-1150, eff. 1-25-13.)

14 Section 999. Effective date. This Act takes effect upon
15 becoming law."