



Rep. La Shawn K. Ford

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LRB101 12783 RLC 67308 a

1 AMENDMENT TO HOUSE BILL 3849

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3849 by replacing  
3 everything after the enacting clause with the following:

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

12 (A) The following terms shall have the meanings  
13 ascribed to them in the Unified Code of Corrections,  
14 730 ILCS 5/5-1-2 through 5/5-1-22:

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

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

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

14 (B) As used in this Section, "charge not initiated  
15 by arrest" means a charge (as defined by 730 ILCS  
16 5/5-1-3) brought against a defendant where the  
17 defendant is not arrested prior to or as a direct  
18 result of the charge.

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

1           successfully completed by the petitioner is not a  
2 conviction. An order of supervision or an order of  
3 qualified probation that is terminated  
4 unsatisfactorily is a conviction, unless the  
5 unsatisfactory termination is reversed, vacated, or  
6 modified and the judgment of conviction, if any, is  
7 reversed or vacated.

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

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

23           (F) As used in this Section, "last sentence" means  
24 the sentence, order of supervision, or order of  
25 qualified probation (as defined by subsection  
26 (a)(1)(J)), for a criminal offense (as defined by

1 subsection (a)(1)(D)) that terminates last in time in  
2 any jurisdiction, regardless of whether the petitioner  
3 has included the criminal offense for which the  
4 sentence or order of supervision or qualified  
5 probation was imposed in his or her petition. If  
6 multiple sentences, orders of supervision, or orders  
7 of qualified probation terminate on the same day and  
8 are last in time, they shall be collectively considered  
9 the "last sentence" regardless of whether they were  
10 ordered to run concurrently.

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

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

24 (H) "Municipal ordinance violation" means an  
25 offense defined by a municipal or local ordinance that  
26 is criminal in nature and with which the petitioner was

1 charged or for which the petitioner was arrested and  
2 released without charging.

3 (I) "Petitioner" means an adult or a minor  
4 prosecuted as an adult who has applied for relief under  
5 this Section.

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

24 (K) "Seal" means to physically and electronically  
25 maintain the records, unless the records would  
26 otherwise be destroyed due to age, but to make the

1 records unavailable without a court order, subject to  
2 the exceptions in Sections 12 and 13 of this Act. The  
3 petitioner's name shall also be obliterated from the  
4 official index required to be kept by the circuit court  
5 clerk under Section 16 of the Clerks of Courts Act, but  
6 any index issued by the circuit court clerk before the  
7 entry of the order to seal shall not be affected.

8 (L) "Sexual offense committed against a minor"  
9 includes, but is not limited to, the offenses of  
10 indecent solicitation of a child or criminal sexual  
11 abuse when the victim of such offense is under 18 years  
12 of age.

13 (M) "Terminate" as it relates to a sentence or  
14 order of supervision or qualified probation includes  
15 either satisfactory or unsatisfactory termination of  
16 the sentence, unless otherwise specified in this  
17 Section. A sentence is terminated notwithstanding any  
18 outstanding financial legal obligation.

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

23 (2.5) Commencing 180 days after July 29, 2016 (the  
24 effective date of Public Act 99-697), the law enforcement  
25 agency issuing the citation shall automatically expunge,  
26 on or before January 1 and July 1 of each year, the law

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

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

25 (A) the sealing or expungement of the records of  
26 arrests or charges not initiated by arrest that result

1 in an order of supervision for or conviction of: (i)  
2 any sexual offense committed against a minor; (ii)  
3 Section 11-501 of the Illinois Vehicle Code or a  
4 similar provision of a local ordinance; or (iii)  
5 Section 11-503 of the Illinois Vehicle Code or a  
6 similar provision of a local ordinance, unless the  
7 arrest or charge is for a misdemeanor violation of  
8 subsection (a) of Section 11-503 or a similar provision  
9 of a local ordinance, that occurred prior to the  
10 offender reaching the age of 25 years and the offender  
11 has no other conviction for violating Section 11-501 or  
12 11-503 of the Illinois Vehicle Code or a similar  
13 provision of a local ordinance.

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

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

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

1 Criminal Code of 2012, or a similar provision of a  
2 local ordinance;

3 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,  
4 26-5, or 48-1 of the Criminal Code of 1961 or the  
5 Criminal Code of 2012, or a similar provision of a  
6 local ordinance;

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

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

14 (v) any offense or attempted offense that  
15 would subject a person to registration under the  
16 Sex Offender Registration Act.

17 (D) (blank).

18 (b) Expungement.

19 (1) A petitioner may petition the circuit court to  
20 expunge the records of his or her arrests and charges not  
21 initiated by arrest when each arrest or charge not  
22 initiated by arrest sought to be expunged resulted in: (i)  
23 acquittal, dismissal, or the petitioner's release without  
24 charging, unless excluded by subsection (a) (3) (B); (ii) a  
25 conviction which was vacated or reversed, unless excluded  
26 by subsection (a) (3) (B); (iii) an order of supervision and

1 such supervision was successfully completed by the  
2 petitioner, unless excluded by subsection (a)(3)(A) or  
3 (a)(3)(B); or (iv) an order of qualified probation (as  
4 defined in subsection (a)(1)(J)) and such probation was  
5 successfully completed by the petitioner.

6 (1.1) Notwithstanding the eligibility requirements of  
7 this subsection (b), a petitioner is eligible to petition  
8 the circuit court to expunge all records of arrests or  
9 charges not initiated by arrest that result in an order of  
10 supervision for or conviction of a Class 3 or Class 4  
11 felony or a misdemeanor or ordinance violation that has  
12 been sealed under subsection (c), (g), or (h) of this  
13 Section 3 years after the petitioner is granted sealing.  
14 This paragraph (1.1) only applies to a petitioner who has  
15 not been arrested or has not had one or more criminal  
16 convictions between the court granting sealing and the  
17 filing of the petition for relief.

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

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

25 (A) When the arrest or charge not initiated by  
26 arrest sought to be expunged resulted in an acquittal,

1 dismissal, the petitioner's release without charging,  
2 or the reversal or vacation of a conviction, there is  
3 no waiting period to petition for the expungement of  
4 such records.

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

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

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

1 Code or a similar provision of a local ordinance  
2 shall not be eligible for expungement until the  
3 petitioner has reached the age of 25 years.

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

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

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

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

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

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

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

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

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

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

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

14 (c) Sealing.

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

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

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

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

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

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

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

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

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

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

26 (A) Records identified as eligible under

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

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

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

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

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

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

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

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

26 (d) Procedure. The following procedures apply to

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

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

15 (1.5) County fee waiver pilot program. From August 9,  
16 2019 (the effective date of Public Act 101-306) through  
17 December 31, 2020, in a county of 3,000,000 or more  
18 inhabitants, no fee shall be required to be paid by a  
19 petitioner if the records sought to be expunged or sealed  
20 were arrests resulting in release without charging or  
21 arrests or charges not initiated by arrest resulting in  
22 acquittal, dismissal, or conviction when the conviction  
23 was reversed or vacated, unless excluded by subsection  
24 (a) (3) (B). The provisions of this paragraph (1.5), other  
25 than this sentence, are inoperative on and after January 1,  
26 2021.

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

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

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

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

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

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

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

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

12 (5) Objections.

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

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

24 (6) Entry of order.

25 (A) The Chief Judge of the circuit wherein the  
26 charge was brought, any judge of that circuit

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

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

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

1 financial obligation to pursue collection under  
2 applicable federal, State, or local law.

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

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

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

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

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

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

26 (8) Service of order. After entering an order to

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

9 (9) Implementation of order.

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

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

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

1 and

2 (iii) in response to an inquiry for expunged  
3 records, the court, the Department, or the agency  
4 receiving such inquiry, shall reply as it does in  
5 response to inquiries when no records ever  
6 existed.

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

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

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

24 (iii) the records shall be impounded by the  
25 Department within 60 days of the date of service of  
26 the order as ordered by the court, unless a motion

1 to vacate, modify, or reconsider the order is filed  
2 pursuant to paragraph (12) of subsection (d) of  
3 this Section;

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

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

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

20 (i) the records shall be expunged (as defined  
21 in subsection (a)(1)(E)) by the arresting agency  
22 and any other agency as ordered by the court,  
23 within 60 days of the date of service of the order,  
24 unless a motion to vacate, modify, or reconsider  
25 the order is filed under paragraph (12) of  
26 subsection (d) of this Section;

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

9           (iii) the records shall be impounded by the  
10 Department within 60 days of the date of service of  
11 the order as ordered by the court, unless a motion  
12 to vacate, modify, or reconsider the order is filed  
13 under paragraph (12) of subsection (d) of this  
14 Section;

15           (iv) records impounded by the Department may  
16 be disseminated by the Department only as required  
17 by law or to the arresting authority, the State's  
18 Attorney, and the court upon a later arrest for the  
19 same or a similar offense or for the purpose of  
20 sentencing for any subsequent felony, and to the  
21 Department of Corrections upon conviction for any  
22 offense; and

23           (v) in response to an inquiry for these records  
24 from anyone not authorized by law to access the  
25 records, the court, the Department, or the agency  
26 receiving the inquiry shall reply as it does in

1 response to inquiries when no records ever  
2 existed.

3 (C) Upon entry of an order to seal records under  
4 subsection (c), the arresting agency, any other agency  
5 as ordered by the court, the Department, and the court  
6 shall seal the records (as defined in subsection  
7 (a) (1) (K)). In response to an inquiry for such records,  
8 from anyone not authorized by law to access such  
9 records, the court, the Department, or the agency  
10 receiving such inquiry shall reply as it does in  
11 response to inquiries when no records ever existed.

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

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

15           (F) Notwithstanding any other provision of this  
16 Section, a circuit court clerk may access a sealed  
17 record for the limited purpose of collecting payment  
18 for any legal financial obligations that were  
19 established, imposed, or originated in the criminal  
20 proceedings for which those records have been sealed.

21           (10) Fees. The Department may charge the petitioner a  
22 fee equivalent to the cost of processing any order to  
23 expunge or seal records. Notwithstanding any provision of  
24 the Clerks of Courts Act to the contrary, the circuit court  
25 clerk may charge a fee equivalent to the cost associated  
26 with the sealing or expungement of records by the circuit

1 court clerk. From the total filing fee collected for the  
2 petition to seal or expunge, the circuit court clerk shall  
3 deposit \$10 into the Circuit Court Clerk Operation and  
4 Administrative Fund, to be used to offset the costs  
5 incurred by the circuit court clerk in performing the  
6 additional duties required to serve the petition to seal or  
7 expunge on all parties. The circuit court clerk shall  
8 collect and forward the Department of State Police portion  
9 of the fee to the Department and it shall be deposited in  
10 the State Police Services Fund. If the record brought under  
11 an expungement petition was previously sealed under this  
12 Section, the fee for the expungement petition for that same  
13 record shall be waived.

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

19 (12) Motion to Vacate, Modify, or Reconsider. Under  
20 Section 2-1203 of the Code of Civil Procedure, the  
21 petitioner or any party entitled to notice may file a  
22 motion to vacate, modify, or reconsider the order granting  
23 or denying the petition to expunge or seal within 60 days  
24 of service of the order. If filed more than 60 days after  
25 service of the order, a petition to vacate, modify, or  
26 reconsider shall comply with subsection (c) of Section

1 2-1401 of the Code of Civil Procedure. Upon filing of a  
2 motion to vacate, modify, or reconsider, notice of the  
3 motion shall be served upon the petitioner and all parties  
4 entitled to notice of the petition.

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

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

22 (15) Compliance with Order Granting Petition to  
23 Expunge Records. While a party is seeking relief from the  
24 order granting the petition to expunge through a motion  
25 filed under paragraph (12) of this subsection (d) or is  
26 appealing the order, and unless a court has entered a stay

1 of that order, the parties entitled to notice of the  
2 petition must seal, but need not expunge, the records until  
3 there is a final order on the motion for relief or, in the  
4 case of an appeal, the issuance of that court's mandate.

5 (16) The changes to this subsection (d) made by Public  
6 Act 98-163 apply to all petitions pending on August 5, 2013  
7 (the effective date of Public Act 98-163) and to all orders  
8 ruling on a petition to expunge or seal on or after August  
9 5, 2013 (the effective date of Public Act 98-163).

10 (e) Whenever a person who has been convicted of an offense  
11 is granted a pardon by the Governor which specifically  
12 authorizes expungement, he or she may, upon verified petition  
13 to the Chief Judge of the circuit where the person had been  
14 convicted, any judge of the circuit designated by the Chief  
15 Judge, or in counties of less than 3,000,000 inhabitants, the  
16 presiding trial judge at the defendant's trial, have a court  
17 order 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 defendant  
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 pardoned but the order  
26 shall not affect any index issued by the circuit court clerk

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

11 (e-5) Whenever a person who has been convicted of an  
12 offense is granted a certificate of eligibility for sealing by  
13 the Prisoner Review Board which specifically authorizes  
14 sealing, he or she may, upon verified petition to the Chief  
15 Judge of the circuit where the person had been convicted, any  
16 judge of the circuit designated by the Chief Judge, or in  
17 counties of less than 3,000,000 inhabitants, the presiding  
18 trial judge at the petitioner's trial, have a court order  
19 entered sealing the record of arrest from the official records  
20 of the arresting authority and order that the records of the  
21 circuit court clerk and the Department be sealed until further  
22 order of the court upon good cause shown or as otherwise  
23 provided herein, and the name of the petitioner obliterated  
24 from the official index requested to be kept by the circuit  
25 court clerk under Section 16 of the Clerks of Courts Act in  
26 connection with the arrest and conviction for the offense for

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

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

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

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

1 disclose any data in a manner that would allow the  
2 identification of any particular individual or employing unit.  
3 The study shall be made available to the General Assembly no  
4 later than September 1, 2010.

5 (g) Immediate Sealing.

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

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

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

24 (4) Notice of Eligibility for Immediate Sealing. Upon  
25 entry of a disposition for an eligible record under this  
26 subsection (g), the defendant shall be informed by the

1 court of his or her right to have eligible records  
2 immediately sealed and the procedure for the immediate  
3 sealing of these records.

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

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

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

26 (C) Drug Test. The petitioner shall not be required

1 to attach proof that he or she has passed a drug test.

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

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

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

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

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

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

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

1 petitioner and all parties entitled to service of the  
2 order in conformance with subsection (d) (8).

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

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

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

1 service of the order.

2 (h) Sealing; trafficking victims.

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

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

22 (3) If an objection is filed alleging that the  
23 petitioner is not entitled to immediate sealing under this  
24 subsection (h), the court shall conduct a hearing under  
25 paragraph (7) of subsection (d) of this Section and the  
26 court shall determine whether the petitioner is entitled to

1 immediate sealing under this subsection (h). A petitioner  
2 is eligible for immediate relief under this subsection (h)  
3 if he or she shows, by a preponderance of the evidence,  
4 that: (A) he or she was a victim of human trafficking at  
5 the time of the offense; and (B) that his or her  
6 participation in the offense was a direct result of human  
7 trafficking under Section 10-9 of the Criminal Code of 2012  
8 or a severe form of trafficking under the federal  
9 Trafficking Victims Protection Act.

10 (i) Minor Cannabis Offenses under the Cannabis Control Act.

11 (1) Expungement of Arrest Records of Minor Cannabis  
12 Offenses.

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

20 (i) One year or more has elapsed since the date  
21 of the arrest or law enforcement interaction  
22 documented in the records; and

23 (ii) No criminal charges were filed relating  
24 to the arrest or law enforcement interaction or  
25 criminal charges were filed and subsequently  
26 dismissed or vacated or the arrestee was

1 acquitted.

2 (B) If the law enforcement agency is unable to  
3 verify satisfaction of condition (ii) in paragraph  
4 (A), records that satisfy condition (i) in paragraph  
5 (A) shall be automatically expunged.

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

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

12 (ii) Records created prior to January 1, 2013,  
13 but on or after January 1, 2000, shall be  
14 automatically expunged prior to January 1, 2023;

15 (iii) Records created prior to January 1, 2000  
16 shall be automatically expunged prior to January  
17 1, 2025.

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

25 (D) Nothing in this Section shall be construed to  
26 restrict or modify an individual's right to have that

1 individual's records expunged except as otherwise may  
2 be provided in this Act, or diminish or abrogate any  
3 rights or remedies otherwise available to the  
4 individual.

5 (2) Pardons Authorizing Expungement of Minor Cannabis  
6 Offenses.

7 (A) Upon June 25, 2019 (the effective date of  
8 Public Act 101-27), the Department of State Police  
9 shall review all criminal history record information  
10 and identify all records that meet all of the following  
11 criteria:

12 (i) one or more convictions for a Minor  
13 Cannabis Offense;

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

17 (iii) the conviction identified in paragraph  
18 (2)(A)(i) is not associated with a conviction for a  
19 violent crime as defined in subsection (c) of  
20 Section 3 of the Rights of Crime Victims and  
21 Witnesses Act.

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

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

13          (ii) In response to a written objection from a  
14          State's Attorney, the Prisoner Review Board is  
15          authorized to conduct a non-public hearing to  
16          evaluate the information provided in the  
17          objection.

18          (iii) The Prisoner Review Board shall make a  
19          confidential and privileged recommendation to the  
20          Governor as to whether to grant a pardon  
21          authorizing expungement for each of the records  
22          identified by the Department of State Police as  
23          described in paragraph (2) (A).

24          (C) If an individual has been granted a pardon  
25          authorizing expungement as described in this Section,  
26          the Prisoner Review Board, through the Attorney

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

1           electronic means (if available) or otherwise make it  
2           available to the individual upon request.

3           (D) Nothing in this Section is intended to diminish  
4           or abrogate any rights or remedies otherwise available  
5           to the individual.

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

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

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

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

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

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

1 review, that: (A) the person was arrested before June 25,  
2 2019 (the effective date of Public Act 101-27) for an  
3 offense that has been made eligible for expungement; (B)  
4 the case is pending at the time; and (C) the person has not  
5 been sentenced of the minor cannabis violation eligible for  
6 expungement under this subsection, the court shall  
7 consider the following: the reasons to retain the records  
8 provided by law enforcement, the petitioner's age, the  
9 petitioner's age at the time of offense, the time since the  
10 conviction, and the specific adverse consequences if  
11 denied. If a motion to dismiss and expunge is granted, the  
12 records shall be expunged in accordance with subparagraph  
13 (d) (9) (A) of this Section.

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

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

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

26 (10) Effect of Expungement. A person's right to expunge

1 an expungeable offense shall not be limited under this  
2 Section. The effect of an order of expungement shall be to  
3 restore the person to the status he or she occupied before  
4 the arrest, charge, or conviction.

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

8 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;  
9 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.  
10 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,  
11 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;  
12 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.  
13 12-4-19.)".