

AN ACT concerning juveniles.

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

Section 5. The Personnel Code is amended by changing Section 12g as follows:

(20 ILCS 415/12g)

Sec. 12g. Department of Juvenile Justice; positions  
~~teachers.~~

(a) Notwithstanding any other provision of law to the contrary, the Department of Central Management Services is not required to verify the license, endorsement, or both, of individuals seeking positions within the Department of Juvenile Justice requiring licensure by the State Board of Education under Article 21B of the School Code ~~the State educator license of a teacher employed by the Department of Juvenile Justice if the license is verified by the State Board of Education.~~

(b) This Section shall become inoperative when the consent decree entered into on December 6, 2012 (as has been or may be corrected, amended, or modified in the action entitled R.J., et al. v. Mueller, case no. 12-cv-07289, in the United States District Court for the Northern District of Illinois, Eastern Division) is no longer in force.

(Source: P.A. 100-953, eff. 8-19-18.)

Section 10. The Criminal Identification Act is amended by changing Section 5.2 as follows:

(20 ILCS 2630/5.2)

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

(a) General Provisions.

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

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

- (i) Business Offense (730 ILCS 5/5-1-2),
- (ii) Charge (730 ILCS 5/5-1-3),
- (iii) Court (730 ILCS 5/5-1-6),
- (iv) Defendant (730 ILCS 5/5-1-7),
- (v) Felony (730 ILCS 5/5-1-9),
- (vi) Imprisonment (730 ILCS 5/5-1-10),
- (vii) Judgment (730 ILCS 5/5-1-12),
- (viii) Misdemeanor (730 ILCS 5/5-1-14),
- (ix) Offense (730 ILCS 5/5-1-15),
- (x) Parole (730 ILCS 5/5-1-16),
- (xi) Petty Offense (730 ILCS 5/5-1-17),
- (xii) Probation (730 ILCS 5/5-1-18),

- (xiii) Sentence (730 ILCS 5/5-1-19),
- (xiv) Supervision (730 ILCS 5/5-1-21), and
- (xv) Victim (730 ILCS 5/5-1-22).

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

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

(D) "Criminal offense" means a petty offense, business offense, misdemeanor, felony, or municipal ordinance violation (as defined in subsection

(a)(1)(H)). As used in this Section, a minor traffic offense (as defined in subsection (a)(1)(G)) shall not be considered a criminal offense.

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

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

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

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

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

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

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

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

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

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

(2) Minor Traffic Offenses. Orders of supervision or convictions for minor traffic offenses shall not affect a

petitioner's eligibility to expunge or seal records pursuant to this Section.

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

issued a citation for any of those offenses.

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

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

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

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



offenses:

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

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

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

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

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

(D) (blank).

(b) Expungement.

(1) A petitioner may petition the circuit court to expunge the records of his or her arrests and charges not

initiated by arrest when each arrest or charge not initiated by arrest sought to be expunged resulted in: (i) acquittal, dismissal, or the petitioner's release without charging, unless excluded by subsection (a)(3)(B); (ii) a conviction which was vacated or reversed, unless excluded by subsection (a)(3)(B); (iii) an order of supervision and such supervision was successfully completed by the petitioner, unless excluded by subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of qualified probation (as defined in subsection (a)(1)(J)) and such probation was successfully completed by the petitioner.

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

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

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

(B) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of

supervision, successfully completed by the petitioner, the following time frames will apply:

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

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

(ii) Those arrests or charges that resulted in orders of supervision for any other offenses shall not be eligible for expungement until 2 years have

passed following the satisfactory termination of the supervision.

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

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

(4) Whenever a person has been arrested for or convicted of any offense, in the name of a person whose identity he or she has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his or her identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the Chief Judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his or her name from all such records in

connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the circuit court clerk shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing in this Section shall limit the Department of State Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used.

(5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse, the victim of that offense may request that the State's Attorney of the county in which the conviction occurred file a verified petition with the presiding trial judge at the petitioner's trial to have a court order entered to seal the records of the circuit court clerk in connection with the proceedings of the trial court concerning that offense. However, the records of the arresting authority and the Department of State Police concerning the offense

shall not be sealed. The court, upon good cause shown, shall make the records of the circuit court clerk in connection with the proceedings of the trial court concerning the offense available for public inspection.

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

(7) Nothing in this Section shall prevent the Department of State Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections, Section 12-4.3 or subdivision (b)(1) of Section 12-3.05 of the Criminal Code of 1961 or the Criminal Code of 2012, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Substance Use Disorder Act, or Section 10 of the Steroid Control Act.

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

(c) Sealing.

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

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

(A) All arrests resulting in release without charging;

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

(C) Arrests or charges not initiated by arrest resulting in orders of supervision, including orders of supervision for municipal ordinance violations, successfully completed by the petitioner, unless

excluded by subsection (a) (3);

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

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

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

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

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

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



sentence (as defined in subsection (a) (1) (F)).

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

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

(E) Records identified as eligible under subsections (c) (2) (C), (c) (2) (D), (c) (2) (E), or (c) (2) (F) may be sealed upon termination of the petitioner's last sentence if the petitioner earned a high school diploma, associate's degree, career certificate, vocational technical certification, or bachelor's degree, or passed the high school level Test of General Educational Development, during the period of his or her sentence, ~~aftercare release,~~ or mandatory supervised release. This subparagraph shall apply only to a petitioner who has not completed the same

educational goal prior to the period of his or her sentence, aftercare release, or mandatory supervised release. If a petition for sealing eligible records filed under this subparagraph is denied by the court, the time periods under subparagraph (B) or (C) shall apply to any subsequent petition for sealing filed by the petitioner.

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

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

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

(1) Filing the petition. Upon becoming eligible to petition for the expungement or sealing of records under this Section, the petitioner shall file a petition

requesting the expungement or sealing of records with the clerk of the court where the arrests occurred or the charges were brought, or both. If arrests occurred or charges were brought in multiple jurisdictions, a petition must be filed in each such jurisdiction. The petitioner shall pay the applicable fee, except no fee shall be required if the petitioner has obtained a court order waiving fees under Supreme Court Rule 298 or it is otherwise waived.

(1.5) County fee waiver pilot program. In a county of 3,000,000 or more inhabitants, no fee shall be required to be paid by a petitioner if the records sought to be expunged or sealed were arrests resulting in release without charging or arrests or charges not initiated by arrest resulting in acquittal, dismissal, or conviction when the conviction was reversed or vacated, unless excluded by subsection (a)(3)(B). The provisions of this paragraph (1.5), other than this sentence, are inoperative on and after January 1, 2019.

(2) Contents of petition. The petition shall be verified and shall contain the petitioner's name, date of birth, current address and, for each arrest or charge not initiated by arrest sought to be sealed or expunged, the case number, the date of arrest (if any), the identity of the arresting authority, and such other information as the court may require. During the pendency of the proceeding,

the petitioner shall promptly notify the circuit court clerk of any change of his or her address. If the petitioner has received a certificate of eligibility for sealing from the Prisoner Review Board under paragraph (10) of subsection (a) of Section 3-3-2 of the Unified Code of Corrections, the certificate shall be attached to the petition.

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

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

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

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

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

(4) Service of petition. The circuit court clerk shall promptly serve a copy of the petition and documentation to support the petition under subsection (e-5) or (e-6) on the

State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest.

(5) Objections.

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

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

(6) Entry of order.

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

(B) Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency, or

the chief legal officer files an objection to the petition to expunge or seal within 60 days from the date of service of the petition, the court shall enter an order granting or denying the petition.

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

(7) Hearings. If an objection is filed, the court shall set a date for a hearing and notify the petitioner and all parties entitled to notice of the petition of the hearing date at least 30 days prior to the hearing. Prior to the hearing, the State's Attorney shall consult with the

Department as to the appropriateness of the relief sought in the petition to expunge or seal. At the hearing, the court shall hear evidence on whether the petition should or should not be granted, and shall grant or deny the petition to expunge or seal the records based on the evidence presented at the hearing. The court may consider the following:

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

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

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

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

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

(8) Service of order. After entering an order to expunge or seal records, the court must provide copies of the order to the Department, in a form and manner prescribed by the Department, to the petitioner, to the State's Attorney or prosecutor charged with the duty of prosecuting the offense, to the arresting agency, to the chief legal officer of the unit of local government effecting the arrest, and to such other criminal justice

agencies as may be ordered by the court.

(9) Implementation of order.

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

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

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

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

(B) Upon entry of an order to expunge records



pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

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

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

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

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

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

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

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

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

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

circuit court clerk before the entry of the order;

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

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

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

(C) Upon entry of an order to seal records under subsection (c), the arresting agency, any other agency as ordered by the court, the Department, and the court shall seal the records (as defined in subsection (a) (1) (K)). In response to an inquiry for such records,

from anyone not authorized by law to access such records, the court, the Department, or the agency receiving such inquiry shall reply as it does in response to inquiries when no records ever existed.

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

(E) Upon motion, the court may order that a sealed judgment or other court record necessary to demonstrate the amount of any legal financial obligation due and owing be made available for the limited purpose of collecting any legal financial obligations owed by the petitioner that were established, imposed, or originated in the criminal

proceeding for which those records have been sealed. The records made available under this subparagraph (E) shall not be entered into the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act and shall be immediately re-impounded upon the collection of the outstanding financial obligations.

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

(10) Fees. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal records. Notwithstanding any provision of the Clerks of Courts Act to the contrary, the circuit court clerk may charge a fee equivalent to the cost associated with the sealing or expungement of records by the circuit court clerk. From the total filing fee collected for the petition to seal or expunge, the circuit court clerk shall deposit \$10 into the Circuit Court Clerk Operation and Administrative Fund, to be used to offset the costs incurred by the circuit court clerk in performing the additional duties required to serve the petition to seal or expunge on all parties. The circuit court clerk shall

collect and forward the Department of State Police portion of the fee to the Department and it shall be deposited in the State Police Services Fund. If the record brought under an expungement petition was previously sealed under this Section, the fee for the expungement petition for that same record shall be waived.

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

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

(13) Effect of Order. An order granting a petition under the expungement or sealing provisions of this Section shall not be considered void because it fails to comply

with the provisions of this Section or because of any error asserted in a motion to vacate, modify, or reconsider. The circuit court retains jurisdiction to determine whether the order is voidable and to vacate, modify, or reconsider its terms based on a motion filed under paragraph (12) of this subsection (d).

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

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

(16) The changes to this subsection (d) made by Public Act 98-163 apply to all petitions pending on August 5, 2013 (the effective date of Public Act 98-163) and to all orders

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

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



to that individual. Upon entry of the order of expungement, the circuit court clerk shall promptly mail a copy of the order to the person who was pardoned.

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

of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of sealing, the circuit court clerk shall promptly mail a copy of the order to the person who was granted the certificate of eligibility for sealing.

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

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

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

(g) Immediate Sealing.

(1) Applicability. Notwithstanding any other provision of this Act to the contrary, and cumulative with any rights

to expungement or sealing of criminal records, this subsection authorizes the immediate sealing of criminal records of adults and of minors prosecuted as adults.

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

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

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

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

(A) Filing the Petition. Upon entry of the final disposition of the case, the defendant's attorney may

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

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

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

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

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

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

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

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

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

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

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

(K) Motion to Vacate, Modify, or Reconsider. Under Section 2-1203 of the Code of Civil Procedure, the petitioner, State's Attorney, or the Department of State Police may file a motion to vacate, modify, or reconsider the order denying the petition to

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

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

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

(h) Sealing; trafficking victims.

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

underlying offense was a direct result of human trafficking under Section 10-9 of the Criminal Code of 2012 or a severe form of trafficking under the federal Trafficking Victims Protection Act.

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

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



or a severe form of trafficking under the federal Trafficking Victims Protection Act.

(Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385, eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16; 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff. 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff. 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863, eff. 8-14-18; revised 8-30-18.)

Section 15. The Juvenile Court Act of 1987 is amended by changing Sections 5-710 and 5-750 as follows:

(705 ILCS 405/5-710)

Sec. 5-710. Kinds of sentencing orders.

(1) The following kinds of sentencing orders may be made in respect of wards of the court:

(a) Except as provided in Sections 5-805, 5-810, and 5-815, a minor who is found guilty under Section 5-620 may be:

(i) put on probation or conditional discharge and released to his or her parents, guardian or legal custodian, provided, however, that any such minor who is not committed to the Department of Juvenile Justice under this subsection and who is found to be a delinquent for an offense which is first degree murder, a Class X felony, or a forcible felony shall be placed

on probation;

(ii) placed in accordance with Section 5-740, with or without also being put on probation or conditional discharge;

(iii) required to undergo a substance abuse assessment conducted by a licensed provider and participate in the indicated clinical level of care;

(iv) on and after the effective date of this amendatory Act of the 98th General Assembly and before January 1, 2017, placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 16 years of age or, pursuant to Article II of this Act, a minor for whom an independent basis of abuse, neglect, or dependency exists. On and after January 1, 2017, placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 15 years of age or, pursuant to Article II of this Act, a minor for whom an independent basis of abuse, neglect, or dependency exists. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident, or circumstances which give rise to a charge or adjudication of delinquency;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition

or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 15 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts. The limitation that the minor shall only be placed in a juvenile detention home does not apply as follows:

Persons 18 years of age and older who have a petition of delinquency filed against them may be

confined in an adult detention facility. In making a determination whether to confine a person 18 years of age or older who has a petition of delinquency filed against the person, these factors, among other matters, shall be considered:

(A) the age of the person;

(B) any previous delinquent or criminal history of the person;

(C) any previous abuse or neglect history of the person;

(D) any mental health history of the person;

and

(E) any educational history of the person;

(vi) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of Minors Act;

(vii) subject to having his or her driver's license or driving privileges suspended for such time as determined by the court but only until he or she attains 18 years of age;

(viii) put on probation or conditional discharge and placed in detention under Section 3-6039 of the Counties Code for a period not to exceed the period of incarceration permitted by law for adults found guilty of the same offense or offenses for which the minor was adjudicated delinquent, and in any event no longer than

upon attainment of age 21; this subdivision (viii) notwithstanding any contrary provision of the law;

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body; or

(x) placed in electronic monitoring or home detention under Part 7A of this Article.

(b) A minor found to be guilty may be committed to the Department of Juvenile Justice under Section 5-750 if the minor is at least 13 years and under 20 years of age, provided that the commitment to the Department of Juvenile Justice shall be made only if the minor was found guilty of a felony offense or first degree murder. The court shall include in the sentencing order any pre-custody credits the minor is entitled to under Section 5-4.5-100 of the Unified Code of Corrections. The time during which a minor is in custody before being released upon the request of a parent, guardian or legal custodian shall also be considered as time spent in custody.

(c) When a minor is found to be guilty for an offense which is a violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act and made a ward of the court, the court may enter a disposition order requiring the minor to undergo assessment, counseling or treatment in a substance use disorder treatment program approved by the

Department of Human Services.

(2) Any sentencing order other than commitment to the Department of Juvenile Justice may provide for protective supervision under Section 5-725 and may include an order of protection under Section 5-730.

(3) Unless the sentencing order expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification until final closing and discharge of the proceedings under Section 5-750.

(4) In addition to any other sentence, the court may order any minor found to be delinquent to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections, except that the "presentencing hearing" referred to in that Section shall be the sentencing hearing for purposes of this Section. The parent, guardian or legal custodian of the minor may be ordered by the court to pay some or all of the restitution on the minor's behalf, pursuant to the Parental Responsibility Law. The State's Attorney is authorized to act on behalf of any victim in seeking restitution in proceedings under this Section, up to the maximum amount allowed in Section 5 of the Parental Responsibility Law.

(5) Any sentencing order where the minor is committed or placed in accordance with Section 5-740 shall provide for the parents or guardian of the estate of the minor to pay to the legal custodian or guardian of the person of the minor such

sums as are determined by the custodian or guardian of the person of the minor as necessary for the minor's needs. The payments may not exceed the maximum amounts provided for by Section 9.1 of the Children and Family Services Act.

(6) Whenever the sentencing order requires the minor to attend school or participate in a program of training, the truant officer or designated school official shall regularly report to the court if the minor is a chronic or habitual truant under Section 26-2a of the School Code. Notwithstanding any other provision of this Act, in instances in which educational services are to be provided to a minor in a residential facility where the minor has been placed by the court, costs incurred in the provision of those educational services must be allocated based on the requirements of the School Code.

(7) In no event shall a guilty minor be committed to the Department of Juvenile Justice for a period of time in excess of that period for which an adult could be committed for the same act. The court shall include in the sentencing order a limitation on the period of confinement not to exceed the maximum period of imprisonment the court could impose under Chapter 5 ~~Article V~~ of the Unified Code of Corrections.

(7.5) In no event shall a guilty minor be committed to the Department of Juvenile Justice or placed in detention when the act for which the minor was adjudicated delinquent would not be illegal if committed by an adult.

(7.6) In no event shall a guilty minor be committed to the Department of Juvenile Justice for an offense which is a Class 4 felony under Section 19-4 (criminal trespass to a residence), 21-1 (criminal damage to property), 21-1.01 (criminal damage to government supported property), 21-1.3 (criminal defacement of property), 26-1 (disorderly conduct), or 31-4 (obstructing justice) of the Criminal Code of 2012.

(7.75) In no event shall a guilty minor be committed to the Department of Juvenile Justice for an offense that is a Class 3 or Class 4 felony violation of the Illinois Controlled Substances Act unless the commitment occurs upon a third or subsequent judicial finding of a violation of probation for substantial noncompliance with court-ordered treatment or programming.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 or the Criminal Code of 2012 shall be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a



violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 or paragraph (4) of subsection (a) of Section 21-1 of the Criminal Code of 2012 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to undergo medical testing to determine whether the defendant has any sexually transmissible disease including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agency of acquired immunodeficiency syndrome (AIDS). Any medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the minor's person. Except as otherwise provided by law, the results of the test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the sentencing order was entered for the judge's inspection in camera. Acting

in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section, make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961 or the Criminal Code of 2012, a violation of any Section of Article 24 of the Criminal Code of 1961 or the Criminal Code of 2012, or a violation of any statute that involved the wrongful

use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of Juvenile Justice, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 or the Criminal Code of 2012 and similar damage to property located in the municipality or county in which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place the minor in the custody of the Department of Juvenile Justice. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(11) If the court determines that the offense was committed in furtherance of the criminal activities of an organized gang, as provided in subsection (10), and that the offense involved the operation or use of a motor vehicle or the use of a driver's license or permit, the court shall notify the Secretary of State of that determination and of the period for

which the minor shall be denied driving privileges. If, at the time of the determination, the minor does not hold a driver's license or permit, the court shall provide that the minor shall not be issued a driver's license or permit until his or her 18th birthday. If the minor holds a driver's license or permit at the time of the determination, the court shall provide that the minor's driver's license or permit shall be revoked until his or her 21st birthday, or until a later date or occurrence determined by the court. If the minor holds a driver's license at the time of the determination, the court may direct the Secretary of State to issue the minor a judicial driving permit, also known as a JDP. The JDP shall be subject to the same terms as a JDP issued under Section 6-206.1 of the Illinois Vehicle Code, except that the court may direct that the JDP be effective immediately.

(12) If a minor is found to be guilty of a violation of subsection (a-7) of Section 1 of the Prevention of Tobacco Use by Minors Act, the court may, in its discretion, and upon recommendation by the State's Attorney, order that minor and his or her parents or legal guardian to attend a smoker's education or youth diversion program as defined in that Act if that program is available in the jurisdiction where the offender resides. Attendance at a smoker's education or youth diversion program shall be time-credited against any community service time imposed for any first violation of subsection (a-7) of Section 1 of that Act. In addition to any other

penalty that the court may impose for a violation of subsection (a-7) of Section 1 of that Act, the court, upon request by the State's Attorney, may in its discretion require the offender to remit a fee for his or her attendance at a smoker's education or youth diversion program.

For purposes of this Section, "smoker's education program" or "youth diversion program" includes, but is not limited to, a seminar designed to educate a person on the physical and psychological effects of smoking tobacco products and the health consequences of smoking tobacco products that can be conducted with a locality's youth diversion program.

In addition to any other penalty that the court may impose under this subsection (12):

(a) If a minor violates subsection (a-7) of Section 1 of the Prevention of Tobacco Use by Minors Act, the court may impose a sentence of 15 hours of community service or a fine of \$25 for a first violation.

(b) A second violation by a minor of subsection (a-7) of Section 1 of that Act that occurs within 12 months after the first violation is punishable by a fine of \$50 and 25 hours of community service.

(c) A third or subsequent violation by a minor of subsection (a-7) of Section 1 of that Act that occurs within 12 months after the first violation is punishable by a \$100 fine and 30 hours of community service.

(d) Any second or subsequent violation not within the

12-month time period after the first violation is punishable as provided for a first violation.

(Source: P.A. 99-268, eff. 1-1-16; 99-628, eff. 1-1-17; 99-879, eff. 1-1-17; 100-201, eff. 8-18-17; 100-431, eff. 8-25-17; 100-759, eff. 1-1-19.)

(705 ILCS 405/5-750)

Sec. 5-750. Commitment to the Department of Juvenile Justice.

(1) Except as provided in subsection (2) of this Section, when any delinquent has been adjudged a ward of the court under this Act, the court may commit him or her to the Department of Juvenile Justice, if it finds that (a) his or her parents, guardian or legal custodian are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor, or are unwilling to do so, and the best interests of the minor and the public will not be served by placement under Section 5-740, or it is necessary to ensure the protection of the public from the consequences of criminal activity of the delinquent; and (b) commitment to the Department of Juvenile Justice is the least restrictive alternative based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and the reasons why efforts were unsuccessful in locating a less restrictive alternative to secure confinement. Before the court commits a minor to the Department of Juvenile Justice, it

shall make a finding that secure confinement is necessary, following a review of the following individualized factors:

(A) Age of the minor.

(B) Criminal background of the minor.

(C) Review of results of any assessments of the minor, including child centered assessments such as the CANS.

(D) Educational background of the minor, indicating whether the minor has ever been assessed for a learning disability, and if so what services were provided as well as any disciplinary incidents at school.

(E) Physical, mental and emotional health of the minor, indicating whether the minor has ever been diagnosed with a health issue and if so what services were provided and whether the minor was compliant with services.

(F) Community based services that have been provided to the minor, and whether the minor was compliant with the services, and the reason the services were unsuccessful.

(G) Services within the Department of Juvenile Justice that will meet the individualized needs of the minor.

(1.5) Before the court commits a minor to the Department of Juvenile Justice, the court must find reasonable efforts have been made to prevent or eliminate the need for the minor to be removed from the home, or reasonable efforts cannot, at this time, for good cause, prevent or eliminate the need for removal, and removal from home is in the best interests of the minor, the minor's family, and the public.

(2) When a minor of the age of at least 13 years is adjudged delinquent for the offense of first degree murder, the court shall declare the minor a ward of the court and order the minor committed to the Department of Juvenile Justice until the minor's 21st birthday, without the possibility of aftercare release, furlough, or non-emergency authorized absence for a period of 5 years from the date the minor was committed to the Department of Juvenile Justice, except that the time that a minor spent in custody for the instant offense before being committed to the Department of Juvenile Justice shall be considered as time credited towards that 5 year period. Upon release from a Department facility, a minor adjudged delinquent for first degree murder shall be placed on aftercare release until the age of 21, unless sooner discharged from aftercare release or custodianship is otherwise terminated in accordance with this Act or as otherwise provided for by law. Nothing in this subsection (2) shall preclude the State's Attorney from seeking to prosecute a minor as an adult as an alternative to proceeding under this Act.

(3) Except as provided in subsection (2), the commitment of a delinquent to the Department of Juvenile Justice shall be for an indeterminate term which shall automatically terminate upon the delinquent attaining the age of 21 years or upon completion of that period for which an adult could be committed for the same act, whichever occurs sooner, unless the delinquent is sooner discharged from aftercare release or custodianship is



otherwise terminated in accordance with this Act or as otherwise provided for by law.

(3.5) Every delinquent minor committed to the Department of Juvenile Justice under this Act shall be eligible for aftercare release without regard to the length of time the minor has been confined or whether the minor has served any minimum term imposed. Aftercare release shall be administered by the Department of Juvenile Justice, under the direction of the Director. Unless sooner discharged, the Department of Juvenile Justice shall discharge a minor from aftercare release upon completion of the following aftercare release terms:

(a) One and a half years from the date a minor is released from a Department facility, if the minor was committed for a Class X felony;

(b) One year from the date a minor is released from a Department facility, if the minor was committed for a Class 1 or 2 felony; and

(c) Six months from the date a minor is released from a Department facility, if the minor was committed for a Class 3 felony or lesser offense.

(4) When the court commits a minor to the Department of Juvenile Justice, it shall order him or her conveyed forthwith to the appropriate reception station or other place designated by the Department of Juvenile Justice, and shall appoint the Director of Juvenile Justice legal custodian of the minor. The clerk of the court shall issue to the Director of Juvenile

Justice a certified copy of the order, which constitutes proof of the Director's authority. No other process need issue to warrant the keeping of the minor.

(5) If a minor is committed to the Department of Juvenile Justice, the clerk of the court shall forward to the Department:

(a) the sentencing order and copies of committing petition;

(b) all reports;

(c) the court's statement of the basis for ordering the disposition;

(d) any sex offender evaluations;

(e) any risk assessment or substance abuse treatment eligibility screening and assessment of the minor by an agent designated by the State to provide assessment services for the courts;

(f) the number of days, if any, which the minor has been in custody and for which he or she is entitled to credit against the sentence, which information shall be provided to the clerk by the sheriff;

(g) any medical or mental health records or summaries of the minor;

(h) the municipality where the arrest of the minor occurred, the commission of the offense occurred, and the minor resided at the time of commission;

(h-5) a report detailing the minor's criminal history

in a manner and form prescribed by the Department of Juvenile Justice; and

(i) all additional matters which the court directs the clerk to transmit.

(6) Whenever the Department of Juvenile Justice lawfully discharges from its custody and control a minor committed to it, the Director of Juvenile Justice shall petition the court for an order terminating his or her custodianship. The custodianship shall terminate automatically 30 days after receipt of the petition unless the court orders otherwise.

(7) If, while on aftercare release, a minor committed to the Department of Juvenile Justice who resides in this State is charged under the criminal laws of this State, the criminal laws of any other state, or federal law with an offense that could result in a sentence of imprisonment within the Department of Corrections, the penal system of any state, or the federal Bureau of Prisons, the commitment to the Department of Juvenile Justice and all rights and duties created by that commitment are automatically suspended pending final disposition of the criminal charge. If the minor is found guilty of the criminal charge and sentenced to a term of imprisonment in the penitentiary system of the Department of Corrections, the penal system of any state, or the federal Bureau of Prisons, the commitment to the Department of Juvenile Justice shall be automatically terminated. If the criminal charge is dismissed, the minor is found not guilty, or the

minor completes a criminal sentence other than imprisonment within the Department of Corrections, the penal system of any state, or the federal Bureau of Prisons, the previously imposed commitment to the Department of Juvenile Justice and the full aftercare release term shall be automatically reinstated unless custodianship is sooner terminated. Nothing in this subsection (7) shall preclude the court from ordering another sentence under Section 5-710 of this Act or from terminating the Department's custodianship while the commitment to the Department is suspended.

(Source: P.A. 99-268, eff. 1-1-16; 100-765, eff. 8-10-18.)

Section 20. The Unified Code of Corrections is amended by changing Section 3-2.5-61 as follows:

(730 ILCS 5/3-2.5-61)

Sec. 3-2.5-61. Annual and other reports.

(a) The Director shall make an annual electronic report to the Governor and General Assembly concerning persons committed to the Department, its institutions, facilities, and programs, of all moneys expended and received, and on what accounts expended and received no later than January 1 of each year. The report shall include the ethnic and racial background data, not identifiable to an individual, of all persons committed to the Department, its institutions, facilities, programs, and outcome measures established with the Juvenile Advisory Board.

(b) The Department of Juvenile Justice shall, by January 1, April 1, July 1, and October 1 of each year, electronically transmit to the Governor and General Assembly, a report which shall include the following information:

(1) the number of youth in each of the Department's facilities and the number of youth on aftercare;

(2) the demographics of sex, age, race and ethnicity, classification of offense, and geographic location where the offense occurred;

(3) the educational and vocational programs provided at each facility and the number of residents participating in each program;

(4) the present capacity levels in each facility;

(5) staff-to-youth ratios in accordance with the ~~the ratio of the security staff to residents in each facility~~ by federal Prison Rape Elimination Act (PREA) definitions;

(6) the number of reported assaults on staff at each facility;

(7) the number of reported incidents of youth sexual aggression towards staff at each facility including sexual assault, residents exposing themselves, sexual touching, and sexually offensive harassing language such as repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature; and

(8) the number of staff injuries resulting from youth

violence at each facility including descriptions of the nature and location of the injuries, the number of staff injuries requiring medical treatment at the facility, the number of staff injuries requiring outside medical treatment and the number of days off work per injury. For purposes of this Section, the definition of assault on staff includes, but is not limited to, kicking, punching, knocking down, harming or threatening to harm with improvised weapons, or throwing urine or feces at staff.

(c) The requirements in subsection (b) do not relieve the Department from the recordkeeping requirements of the Occupational Safety and Health Act.

(d) The Department shall:

(1) establish a reasonable procedure for employees to report work-related assaults and injuries. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace assault or injury;

(2) inform each employee:

(A) of the procedure for reporting work-related assaults and injuries;

(B) of the right to report work-related assaults and injuries; and

(C) that the Department is prohibited from discharging or in any manner discriminating against employees for reporting work-related assaults and

injuries; and

(3) not discharge, discipline or in any manner discriminate against any employee for reporting a work-related assault or injury.

(e) For the purposes of paragraphs (7) and (8) of subsection (b) only, reports shall be filed beginning July 1, 2019 or the implementation of the Department's Offender 360 Program, whichever occurs first.

(Source: P.A. 99-255, eff. 1-1-16; 100-1075, eff. 1-1-19.)