



Rep. Carol Ammons

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1 AMENDMENT TO HOUSE BILL 2291

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2291 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 (H) "Municipal ordinance violation" means an  
16 offense defined by a municipal or local ordinance that  
17 is criminal in nature and with which the petitioner was  
18 charged or for which the petitioner was arrested and  
19 released without charging.

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

23 (J) "Qualified probation" means an order of  
24 probation under Section 10 of the Cannabis Control Act,  
25 Section 410 of the Illinois Controlled Substances Act,  
26 Section 70 of the Methamphetamine Control and

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

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

25 (L) "Sexual offense committed against a minor"  
26 includes but is not limited to the offenses of indecent

1           solicitation of a child or criminal sexual abuse when  
2           the victim of such offense is under 18 years of age.

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

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

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

1 days after July 29, 2016 (the effective date of Public Act  
2 99-697), the clerk of the circuit court shall expunge, upon  
3 order of the court, or in the absence of a court order on  
4 or before January 1 and July 1 of each year, the court  
5 records of a person found in the circuit court to have  
6 committed a civil law violation of subsection (a) of  
7 Section 4 of the Cannabis Control Act or subsection (c) of  
8 Section 3.5 of the Drug Paraphernalia Control Act in the  
9 clerk's possession or control and which contains the final  
10 satisfactory disposition which pertain to the person  
11 issued a citation for any of those offenses.

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

15 (A) the sealing or expungement of the records of  
16 arrests or charges not initiated by arrest that result  
17 in an order of supervision for or conviction of: (i)  
18 any sexual offense committed against a minor; (ii)  
19 Section 11-501 of the Illinois Vehicle Code or a  
20 similar provision of a local ordinance; or (iii)  
21 Section 11-503 of the Illinois Vehicle Code or a  
22 similar provision of a local ordinance, unless the  
23 arrest or charge is for a misdemeanor violation of  
24 subsection (a) of Section 11-503 or a similar provision  
25 of a local ordinance, that occurred prior to the  
26 offender reaching the age of 25 years and the offender

1 has no other conviction for violating Section 11-501 or  
2 11-503 of the Illinois Vehicle Code or a similar  
3 provision of a local ordinance.

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

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

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

19 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,  
20 26-5, or 48-1 of the Criminal Code of 1961 or the  
21 Criminal Code of 2012, or a similar provision of a  
22 local ordinance;

23 (iii) Sections 12-3.1 or 12-3.2 of the  
24 Criminal Code of 1961 or the Criminal Code of 2012,  
25 or Section 125 of the Stalking No Contact Order  
26 Act, or Section 219 of the Civil No Contact Order



1 Act, or a similar provision of a local ordinance;

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

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

7 (D) (blank).

8 (b) Expungement.

9 (1) A petitioner may petition the circuit court to  
10 expunge the records of his or her arrests and charges not  
11 initiated by arrest when each arrest or charge not  
12 initiated by arrest sought to be expunged resulted in: (i)  
13 acquittal, dismissal, or the petitioner's release without  
14 charging, unless excluded by subsection (a)(3)(B); (ii) a  
15 conviction which was vacated or reversed, unless excluded  
16 by subsection (a)(3)(B); (iii) an order of supervision and  
17 such supervision was successfully completed by the  
18 petitioner, unless excluded by subsection (a)(3)(A) or  
19 (a)(3)(B); ~~or~~ (iv) an order of qualified probation (as  
20 defined in subsection (a)(1)(J)) and such probation was  
21 successfully completed by the petitioner; or (v) an order  
22 of misdemeanor diversion under Section 5-6-3.7 of the  
23 Unified Code of Corrections, and the diversion program was  
24 successfully completed by the petitioner.

25 (1.5) When a petitioner seeks to have a record of  
26 arrest expunged under this Section, and the offender has

1           been convicted of a criminal offense, the State's Attorney  
2           may object to the expungement on the grounds that the  
3           records contain specific relevant information aside from  
4           the mere fact of the arrest.

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

6           (A) When the arrest or charge not initiated by  
7           arrest sought to be expunged resulted in an acquittal,  
8           dismissal, the petitioner's release without charging,  
9           ~~or~~ the reversal or vacation of a conviction, or an  
10          order of misdemeanor diversion under Section 5-6-3.7  
11          of the Unified Code of Corrections, successfully  
12          completed by the petitioner, there is no waiting period  
13          to petition for the expungement of such records.

14          (B) When the arrest or charge not initiated by  
15          arrest sought to be expunged resulted in an order of  
16          supervision, successfully completed by the petitioner,  
17          the following time frames will apply:

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

1 the supervision.

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

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

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

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

1 Act of 1987.

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

1 criminal justice agencies or prosecutors from listing  
2 under an offender's name the false names he or she has  
3 used.

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

20 (6) If a conviction has been set aside on direct review  
21 or on collateral attack and the court determines by clear  
22 and convincing evidence that the petitioner was factually  
23 innocent of the charge, the court that finds the petitioner  
24 factually innocent of the charge shall enter an expungement  
25 order for the conviction for which the petitioner has been  
26 determined to be innocent as provided in subsection (b) of

1 Section 5-5-4 of the Unified Code of Corrections.

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

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

23 (c) Sealing.

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

1 authorizes the sealing of criminal records of adults and of  
2 minors prosecuted as adults. Subsection (g) of this Section  
3 provides for immediate sealing of certain records.

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

6 (A) All arrests resulting in release without  
7 charging;

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

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

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

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

1 Corrections; ~~and~~

2 (F) Arrests or charges not initiated by arrest  
3 resulting in felony convictions unless otherwise  
4 excluded by subsection (a) paragraph (3) of this  
5 Section; ~~and~~;

6 (G) Arrests or charges not initiated by arrest  
7 resulting in orders of misdemeanor diversion under  
8 Section 5-6-3.7 of the Unified Code of Corrections,  
9 successfully completed by the petitioner, unless  
10 excluded by paragraph (3) of subsection (a);

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

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

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

22 (C) Except as otherwise provided in subparagraph  
23 (E) of this paragraph (3), records identified as  
24 eligible under subsections (c)(2)(D), (c)(2)(E), and  
25 (c)(2)(F) may be sealed 3 years after the termination  
26 of the petitioner's last sentence (as defined in



1 subsection (a)(1)(F)). Convictions requiring public  
2 registration under the Arsonist Registration Act, the  
3 Sex Offender Registration Act, or the Murderer and  
4 Violent Offender Against Youth Registration Act may  
5 not be sealed until the petitioner is no longer  
6 required to register under that relevant Act.

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

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

1 the petitioner.

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

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

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

18 (1) Filing the petition. Upon becoming eligible to  
19 petition for the expungement or sealing of records under  
20 this Section, the petitioner shall file a petition  
21 requesting the expungement or sealing of records with the  
22 clerk of the court where the arrests occurred or the  
23 charges were brought, or both. If arrests occurred or  
24 charges were brought in multiple jurisdictions, a petition  
25 must be filed in each such jurisdiction. The petitioner  
26 shall pay the applicable fee, except no fee shall be

1 required if the petitioner has obtained a court order  
2 waiving fees under Supreme Court Rule 298 or it is  
3 otherwise waived.

4 (1.5) County fee waiver pilot program. In a county of  
5 3,000,000 or more inhabitants, no fee shall be required to  
6 be paid by a petitioner if the records sought to be  
7 expunged or sealed were arrests resulting in release  
8 without charging or arrests or charges not initiated by  
9 arrest resulting in acquittal, dismissal, or conviction  
10 when the conviction was reversed or vacated, unless  
11 excluded by subsection (a)(3)(B). The provisions of this  
12 paragraph (1.5), other than this sentence, are inoperative  
13 on and after January 1, 2019.

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

1 petition.

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

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

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

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

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

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

25 (5) Objections.

26 (A) Any party entitled to notice of the petition

1           may file an objection to the petition. All objections  
2           shall be in writing, shall be filed with the circuit  
3           court clerk, and shall state with specificity the basis  
4           of the objection. Whenever a person who has been  
5           convicted of an offense is granted a pardon by the  
6           Governor which specifically authorizes expungement, an  
7           objection to the petition may not be filed.

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

11          (6) Entry of order.

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

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

25          (C) Notwithstanding any other provision of law,  
26          the court shall not deny a petition for sealing under

1           this Section because the petitioner has not satisfied  
2           an outstanding legal financial obligation established,  
3           imposed, or originated by a court, law enforcement  
4           agency, or a municipal, State, county, or other unit of  
5           local government, including, but not limited to, any  
6           cost, assessment, fine, or fee. An outstanding legal  
7           financial obligation does not include any court  
8           ordered restitution to a victim under Section 5-5-6 of  
9           the Unified Code of Corrections, unless the  
10          restitution has been converted to a civil judgment.  
11          Nothing in this subparagraph (C) waives, rescinds, or  
12          abrogates a legal financial obligation or otherwise  
13          eliminates or affects the right of the holder of any  
14          financial obligation to pursue collection under  
15          applicable federal, State, or local law.

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

1 following:

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

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

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

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

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

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

22 (9) Implementation of order.

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

25 (i) the records shall be expunged (as defined  
26 in subsection (a) (1) (E)) by the arresting agency,

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

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

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

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

22 (i) the records shall be expunged (as defined  
23 in subsection (a) (1) (E)) by the arresting agency  
24 and any other agency as ordered by the court,  
25 within 60 days of the date of service of the order,  
26 unless a motion to vacate, modify, or reconsider



1           the order is filed pursuant to paragraph (12) of  
2           subsection (d) of this Section;

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

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

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

25          (v) in response to an inquiry for such records  
26          from anyone not authorized by law to access such

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

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

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

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

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

1 Section;

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

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

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

25 (D) The Department shall send written notice to the  
26 petitioner of its compliance with each order to expunge

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

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

1 financial obligations.

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

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

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

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

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

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

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

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

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

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

24 (e-5) Whenever a person who has been convicted of an  
25 offense is granted a certificate of eligibility for sealing by  
26 the Prisoner Review Board which specifically authorizes



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

1 sealing.

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

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

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

18 (g) Immediate Sealing.

19 (1) Applicability. Notwithstanding any other provision  
20 of this Act to the contrary, and cumulative with any rights  
21 to expungement or sealing of criminal records, this  
22 subsection authorizes the immediate sealing of criminal  
23 records of adults and of minors prosecuted as adults.

24 (2) Eligible Records. Arrests or charges not initiated  
25 by arrest resulting in acquittal or dismissal with  
26 prejudice, except as excluded by subsection (a)(3)(B),

1 that occur on or after January 1, 2018 (the effective date  
2 of Public Act 100-282), may be sealed immediately if the  
3 petition is filed with the circuit court clerk on the same  
4 day and during the same hearing in which the case is  
5 disposed.

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

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

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

19 (A) Filing the Petition. Upon entry of the final  
20 disposition of the case, the defendant's attorney may  
21 immediately petition the court, on behalf of the  
22 defendant, for immediate sealing of eligible records  
23 under paragraph (2) of this subsection (g) that are  
24 entered on or after January 1, 2018 (the effective date  
25 of Public Act 100-282). The immediate sealing petition  
26 may be filed with the circuit court clerk during the

1 hearing in which the final disposition of the case is  
2 entered. If the defendant's attorney does not file the  
3 petition for immediate sealing during the hearing, the  
4 defendant may file a petition for sealing at any time  
5 as authorized under subsection (c) (3) (A).

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

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

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

19 (E) Entry of Order. The presiding trial judge shall  
20 enter an order granting or denying the petition for  
21 immediate sealing during the hearing in which it is  
22 filed. Petitions for immediate sealing shall be ruled  
23 on in the same hearing in which the final disposition  
24 of the case is entered.

25 (F) Hearings. The court shall hear the petition for  
26 immediate sealing on the same day and during the same

1 hearing in which the disposition is rendered.

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

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

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

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

16 (K) Motion to Vacate, Modify, or Reconsider. Under  
17 Section 2-1203 of the Code of Civil Procedure, the  
18 petitioner, State's Attorney, or the Department of  
19 State Police may file a motion to vacate, modify, or  
20 reconsider the order denying the petition to  
21 immediately seal within 60 days of service of the  
22 order. If filed more than 60 days after service of the  
23 order, a petition to vacate, modify, or reconsider  
24 shall comply with subsection (c) of Section 2-1401 of  
25 the Code of Civil Procedure.

26 (L) Effect of Order. An order granting an immediate

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

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

15 (h) Sealing; trafficking victims.

16 (1) A trafficking victim as defined by paragraph (10)  
17 of subsection (a) of Section 10-9 of the Criminal Code of  
18 2012 shall be eligible to petition for immediate sealing of  
19 his or her criminal record upon the completion of his or  
20 her last sentence if his or her participation in the  
21 underlying offense was a direct result of human trafficking  
22 under Section 10-9 of the Criminal Code of 2012 or a severe  
23 form of trafficking under the federal Trafficking Victims  
24 Protection Act.

25 (2) A petitioner under this subsection (h), in addition  
26 to the requirements provided under paragraph (4) of

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

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

23 (Source: P.A. 99-78, eff. 7-20-15; 99-378, eff. 1-1-16; 99-385,  
24 eff. 1-1-16; 99-642, eff. 7-28-16; 99-697, eff. 7-29-16;  
25 99-881, eff. 1-1-17; 100-201, eff. 8-18-17; 100-282, eff.  
26 1-1-18; 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692,



1 eff. 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18;  
2 100-863, eff. 8-14-18; revised 8-30-18.)

3 Section 10. The Cannabis Control Act is amended by changing  
4 Section 10 as follows:

5 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

6 Sec. 10. (a) Whenever any person who has not previously  
7 been convicted of any felony offense under this Act or any law  
8 of the United States or of any State relating to cannabis, or  
9 controlled substances as defined in the Illinois Controlled  
10 Substances Act, pleads guilty to or is found guilty of  
11 violating Sections 4(a), 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of  
12 this Act, the court may, without entering a judgment and with  
13 the consent of such person, sentence him to probation.

14 (a-1) Notwithstanding subsection (a), a defendant shall  
15 not be ineligible for a sentence of probation under this  
16 Section as a result of having been previously convicted of a  
17 Class 4 felony violation of Section 402 of the Illinois  
18 Controlled Substances Act or a Class 3 felony violation of  
19 Section 60 of the Methamphetamine Control and Community  
20 Protection Act prior to the effective date of this amendatory  
21 Act of the 101st General Assembly.

22 (b) When a person is placed on probation, the court shall  
23 enter an order specifying a period of probation of 24 months,  
24 and shall defer further proceedings in the case until the

1 conclusion of the period or until the filing of a petition  
2 alleging violation of a term or condition of probation.

3 (c) The conditions of probation shall be that the person:

4 (1) not violate any criminal statute of any jurisdiction; (2)

5 refrain from possession of a firearm or other dangerous weapon;

6 (3) submit to periodic drug testing at a time and in a manner

7 as ordered by the court, but no less than 3 times during the

8 period of the probation, with the cost of the testing to be

9 paid by the probationer; and (4) perform no less than 30 hours

10 of community service, provided community service is available

11 in the jurisdiction and is funded and approved by the county

12 board. The court may give credit toward the fulfillment of

13 community service hours for participation in activities and

14 treatment as determined by court services.

15 (d) The court may, in addition to other conditions, require

16 that the person:

17 (1) make a report to and appear in person before or

18 participate with the court or such courts, person, or

19 social service agency as directed by the court in the order

20 of probation;

21 (2) pay a fine and costs;

22 (3) work or pursue a course of study or vocational

23 training;

24 (4) undergo medical or psychiatric treatment; or

25 treatment for drug addiction or alcoholism;

26 (5) attend or reside in a facility established for the

1 instruction or residence of defendants on probation;

2 (6) support his dependents;

3 (7) refrain from possessing a firearm or other  
4 dangerous weapon;

5 (7-5) refrain from having in his or her body the  
6 presence of any illicit drug prohibited by the Cannabis  
7 Control Act, the Illinois Controlled Substances Act, or the  
8 Methamphetamine Control and Community Protection Act,  
9 unless prescribed by a physician, and submit samples of his  
10 or her blood or urine or both for tests to determine the  
11 presence of any illicit drug;

12 (8) and in addition, if a minor:

13 (i) reside with his parents or in a foster home;

14 (ii) attend school;

15 (iii) attend a non-residential program for youth;

16 (iv) contribute to his own support at home or in a  
17 foster home.

18 (e) Upon violation of a term or condition of probation, the  
19 court may enter a judgment on its original finding of guilt and  
20 proceed as otherwise provided.

21 (f) Upon fulfillment of the terms and conditions of  
22 probation, the court shall discharge such person and dismiss  
23 the proceedings against him.

24 (g) A disposition of probation is considered to be a  
25 conviction for the purposes of imposing the conditions of  
26 probation and for appeal, however, discharge and dismissal

1 under this Section is not a conviction for purposes of  
2 disqualification or disabilities imposed by law upon  
3 conviction of a crime (including the additional penalty imposed  
4 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)  
5 of this Act).

6 (h) A person may not have more than one discharge and  
7 dismissal under this Section within a 4-year period.

8 (i) If a person is convicted of an offense under this Act,  
9 the Illinois Controlled Substances Act, or the Methamphetamine  
10 Control and Community Protection Act within 5 years subsequent  
11 to a discharge and dismissal under this Section, the discharge  
12 and dismissal under this Section shall be admissible in the  
13 sentencing proceeding for that conviction as a factor in  
14 aggravation.

15 (j) Notwithstanding subsection (a), before a person is  
16 sentenced to probation under this Section, the court may refer  
17 the person to the drug court established in that judicial  
18 circuit pursuant to Section 15 of the Drug Court Treatment Act.  
19 The drug court team shall evaluate the person's likelihood of  
20 successfully completing a sentence of probation under this  
21 Section and shall report the results of its evaluation to the  
22 court. If the drug court team finds that the person suffers  
23 from a substance abuse problem that makes him or her  
24 substantially unlikely to successfully complete a sentence of  
25 probation under this Section, then the drug court shall set  
26 forth its findings in the form of a written order, and the

1 person shall not be sentenced to probation under this Section,  
2 but shall be considered for the drug court program.

3 (Source: P.A. 99-480, eff. 9-9-15; 100-3, eff. 1-1-18; 100-575,  
4 eff. 1-8-18.)

5 Section 15. The Illinois Controlled Substances Act is  
6 amended by changing Sections 402, 408, and 410 as follows:

7 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

8 Sec. 402. Except as otherwise authorized by this Act, it is  
9 unlawful for any person knowingly to possess a controlled or  
10 counterfeit substance or controlled substance analog. A  
11 violation of this Act with respect to each of the controlled  
12 substances listed herein constitutes a single and separate  
13 violation of this Act. For purposes of this Section,  
14 "controlled substance analog" or "analog" means a substance,  
15 other than a controlled substance, which is not approved by the  
16 United States Food and Drug Administration or, if approved, is  
17 not dispensed or possessed in accordance with State or federal  
18 law, and that has a chemical structure substantially similar to  
19 that of a controlled substance in Schedule I or II, or that was  
20 specifically designed to produce an effect substantially  
21 similar to that of a controlled substance in Schedule I or II.  
22 Examples of chemical classes in which controlled substance  
23 analogs are found include, but are not limited to, the  
24 following: phenethylamines, N-substituted piperidines,

1 morphinans, ecgonines, quinazolinones, substituted indoles,  
2 and arylcycloalkylamines. For purposes of this Act, a  
3 controlled substance analog shall be treated in the same manner  
4 as the controlled substance to which it is substantially  
5 similar.

6 (a) Any person who violates this Section with respect to  
7 the following controlled or counterfeit substances and  
8 amounts, notwithstanding any of the provisions of subsections  
9 (c) and (d) to the contrary, is guilty of a Class 1 felony and  
10 shall, if sentenced to a term of imprisonment, be sentenced as  
11 provided in this subsection (a) and fined as provided in  
12 subsection (b):

13 (1) (A) not less than 4 years and not more than 15  
14 years with respect to 15 grams or more but less than  
15 100 grams of a substance containing heroin;

16 (B) not less than 6 years and not more than 30  
17 years with respect to 100 grams or more but less than  
18 400 grams of a substance containing heroin;

19 (C) not less than 8 years and not more than 40  
20 years with respect to 400 grams or more but less than  
21 900 grams of any substance containing heroin;

22 (D) not less than 10 years and not more than 50  
23 years with respect to 900 grams or more of any  
24 substance containing heroin;

25 (2) (A) not less than 4 years and not more than 15  
26 years with respect to 15 grams or more but less than

1 100 grams of any substance containing cocaine;

2 (B) not less than 6 years and not more than 30  
3 years with respect to 100 grams or more but less than  
4 400 grams of any substance containing cocaine;

5 (C) not less than 8 years and not more than 40  
6 years with respect to 400 grams or more but less than  
7 900 grams of any substance containing cocaine;

8 (D) not less than 10 years and not more than 50  
9 years with respect to 900 grams or more of any  
10 substance containing cocaine;

11 (3) (A) not less than 4 years and not more than 15  
12 years with respect to 15 grams or more but less than  
13 100 grams of any substance containing morphine;

14 (B) not less than 6 years and not more than 30  
15 years with respect to 100 grams or more but less than  
16 400 grams of any substance containing morphine;

17 (C) not less than 6 years and not more than 40  
18 years with respect to 400 grams or more but less than  
19 900 grams of any substance containing morphine;

20 (D) not less than 10 years and not more than 50  
21 years with respect to 900 grams or more of any  
22 substance containing morphine;

23 (4) 200 grams or more of any substance containing  
24 peyote;

25 (5) 200 grams or more of any substance containing a  
26 derivative of barbituric acid or any of the salts of a

1 derivative of barbituric acid;

2 (6) 200 grams or more of any substance containing  
3 amphetamine or any salt of an optical isomer of  
4 amphetamine;

5 (6.5) (blank);

6 (7) (A) not less than 4 years and not more than 15  
7 years with respect to: (i) 15 grams or more but less  
8 than 100 grams of any substance containing lysergic  
9 acid diethylamide (LSD), or an analog thereof, or (ii)  
10 100 ~~15~~ or more objects or 100 ~~15~~ or more segregated  
11 parts of an object or objects but less than 200 objects  
12 or 200 segregated parts of an object or objects  
13 containing in them or having upon them any amount of  
14 any substance containing lysergic acid diethylamide  
15 (LSD), or an analog thereof;

16 (B) not less than 6 years and not more than 30  
17 years with respect to: (i) 100 grams or more but less  
18 than 400 grams of any substance containing lysergic  
19 acid diethylamide (LSD), or an analog thereof, or (ii)  
20 200 or more objects or 200 or more segregated parts of  
21 an object or objects but less than 600 objects or less  
22 than 600 segregated parts of an object or objects  
23 containing in them or having upon them any amount of  
24 any substance containing lysergic acid diethylamide  
25 (LSD), or an analog thereof;

26 (C) not less than 8 years and not more than 40



1 years with respect to: (i) 400 grams or more but less  
2 than 900 grams of any substance containing lysergic  
3 acid diethylamide (LSD), or an analog thereof, or (ii)  
4 600 or more objects or 600 or more segregated parts of  
5 an object or objects but less than 1500 objects or 1500  
6 segregated parts of an object or objects containing in  
7 them or having upon them any amount of any substance  
8 containing lysergic acid diethylamide (LSD), or an  
9 analog thereof;

10 (D) not less than 10 years and not more than 50  
11 years with respect to: (i) 900 grams or more of any  
12 substance containing lysergic acid diethylamide (LSD),  
13 or an analog thereof, or (ii) 1500 or more objects or  
14 1500 or more segregated parts of an object or objects  
15 containing in them or having upon them any amount of a  
16 substance containing lysergic acid diethylamide (LSD),  
17 or an analog thereof;

18 (7.5) (A) not less than 4 years and not more than 15  
19 years with respect to: (i) 15 grams or more but less  
20 than 100 grams of any substance listed in paragraph  
21 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
22 (20.1), (21), (25), or (26) of subsection (d) of  
23 Section 204, or an analog or derivative thereof, or  
24 (ii) 15 or more pills, tablets, caplets, capsules, or  
25 objects but less than 200 pills, tablets, caplets,  
26 capsules, or objects containing in them or having upon

1           them any amount of any substance listed in paragraph  
2           (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
3           (20.1), (21), (25), or (26) of subsection (d) of  
4           Section 204, or an analog or derivative thereof;

5           (B) not less than 6 years and not more than 30  
6           years with respect to: (i) 100 grams or more but less  
7           than 400 grams of any substance listed in paragraph  
8           (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
9           (20.1), (21), (25), or (26) of subsection (d) of  
10          Section 204, or an analog or derivative thereof, or  
11          (ii) 200 or more pills, tablets, caplets, capsules, or  
12          objects but less than 600 pills, tablets, caplets,  
13          capsules, or objects containing in them or having upon  
14          them any amount of any substance listed in paragraph  
15          (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
16          (20.1), (21), (25), or (26) of subsection (d) of  
17          Section 204, or an analog or derivative thereof;

18          (C) not less than 8 years and not more than 40  
19          years with respect to: (i) 400 grams or more but less  
20          than 900 grams of any substance listed in paragraph  
21          (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
22          (20.1), (21), (25), or (26) of subsection (d) of  
23          Section 204, or an analog or derivative thereof, or  
24          (ii) 600 or more pills, tablets, caplets, capsules, or  
25          objects but less than 1,500 pills, tablets, caplets,  
26          capsules, or objects containing in them or having upon

1           them any amount of any substance listed in paragraph  
2           (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
3           (20.1), (21), (25), or (26) of subsection (d) of  
4           Section 204, or an analog or derivative thereof;

5           (D) not less than 10 years and not more than 50  
6           years with respect to: (i) 900 grams or more of any  
7           substance listed in paragraph (1), (2), (2.1), (2.2),  
8           (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of  
9           subsection (d) of Section 204, or an analog or  
10          derivative thereof, or (ii) 1,500 or more pills,  
11          tablets, caplets, capsules, or objects containing in  
12          them or having upon them any amount of a substance  
13          listed in paragraph (1), (2), (2.1), (2.2), (3),  
14          (14.1), (19), (20), (20.1), (21), (25), or (26) of  
15          subsection (d) of Section 204, or an analog or  
16          derivative thereof;

17          (8) 30 grams or more of any substance containing  
18          pentazocine or any of the salts, isomers and salts of  
19          isomers of pentazocine, or an analog thereof;

20          (9) 30 grams or more of any substance containing  
21          methaqualone or any of the salts, isomers and salts of  
22          isomers of methaqualone;

23          (10) 30 grams or more of any substance containing  
24          phencyclidine or any of the salts, isomers and salts of  
25          isomers of phencyclidine (PCP);

26          (10.5) 30 grams or more of any substance containing

1 ketamine or any of the salts, isomers and salts of isomers  
2 of ketamine;

3 (11) 200 grams or more of any substance containing any  
4 substance classified as a narcotic drug in Schedules I or  
5 II, or an analog thereof, which is not otherwise included  
6 in this subsection.

7 (a-1) Any person who violates this Section with regard to  
8 the following controlled substances and amounts is guilty  
9 of a Class 4 felony:

10 (1) 3 grams or more but less than 15 grams of a  
11 substance containing heroin;

12 (2) 3 grams or more but less than 200 grams of a  
13 substance containing fentanyl;

14 (3) 5 grams or more but less than 15 grams of a  
15 substance containing cocaine;

16 (4) 4 grams or more but less than 15 grams of a  
17 substance containing morphine;

18 (5) (i) 1 gram or more but less than 15 grams of any  
19 substance containing lysergic acid diethylamide (LSD); or

20 (ii) more than 40 objects or segregated parts of an object  
21 or objects but less than 100 objects or segregated parts of  
22 an object or objects containing in them or having upon them  
23 any amount of a substance containing lysergic acid  
24 diethylamide (LSD), or an analog thereof;

25 (6) (i) 2 grams or more but less than 15 grams of any  
26 substance listed in paragraph (1), (2), (2.1), (2.2), (3),

1       (14.1), (19), (20), (20.1), (21), (25), or (26) of  
2       subsection (d) of Section 204, or an analog or derivative  
3       thereof; or (ii) 5 or more pills, tablets, caplets,  
4       capsules, or objects containing in them or having upon them  
5       any amount of any substance listed in paragraph (1), (2),  
6       (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25),  
7       or (26) of subsection (d) of Section 204, or an analog or  
8       derivative thereof;

9       (7) 4 grams or more but less than 30 grams of any  
10       substance containing pentazocine or any of the salts,  
11       isomers and salts of isomers of pentazocine, or an analog  
12       thereof;

13       (8) 3 grams or more but less than 15 grams of any  
14       substance containing phencyclidine or any of the salts,  
15       isomers and salts of isomers of phencyclidine (PCP), or an  
16       analog thereof;

17       (9) 3 grams or more but less than 30 grams of any  
18       substance containing ketamine or any of the salts, isomers  
19       and salts of isomers of ketamine;

20       (10) (i) 4 grams or more but less than 200 grams of a  
21       substance containing hydrocodone, dihydrocodeine,  
22       oxycodone, or any of the salts, isomers, and salts of  
23       isomers of hydrocodone, dihydrocodeine, or oxycodone, or  
24       an analog thereof; or (ii) more than 40 pills, tablets,  
25       caplets, capsules, or objects but less than 100 pills,  
26       tablets, capsules, or objects containing hydrocodone,

1       dihydrocodeine, oxycodone, or any of the salts, isomers,  
2       and salts of isomers of hydrocodone, dihydrocodeine, or  
3       oxycodone, or an analog of hydrocodone, dihydrocodeine, or  
4       oxycodone.

5       The fine for a violation punishable under this subsection  
6       (a-1) shall not be more than \$25,000.

7       (a-5) Any person who violates this Section with regard to  
8       the following controlled substances and amounts is guilty of a  
9       Class A misdemeanor:

10           (1) less than 3 grams of a substance containing heroin;

11           (2) less than 3 grams of a substance containing  
12       fentanyl or an analog thereof;

13           (3) less than 5 grams of a substance containing  
14       cocaine;

15           (4) less than 4 grams of a substance containing  
16       morphine;

17           (5) (i) less than 1 gram of any substance containing  
18       lysergic acid diethylamide (LSD); or (ii) less than 40  
19       objects or segregated parts of an object or objects  
20       containing in them or having upon them any amount of a  
21       substance containing lysergic acid diethylamide (LSD), or  
22       an analog thereof;

23           (6) (i) less than 2 grams of any substance listed in  
24       paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
25       (20.1), (21), (25), or (26) of subsection (d) of Section  
26       204, or an analog or derivative thereof; or (ii) less than

1       5 pills, tablets, caplets, capsules, or objects containing  
2       in them or having upon them any amount of any substance  
3       listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1),  
4       (19), (20), (20.1), (21), (25), or (26) of subsection (d)  
5       of Section 204, or an analog or derivative thereof;

6       (7) less than 4 grams any substance containing  
7       pentazocine or any of the salts, isomers and salts of  
8       isomers of pentazocine, or an analog thereof;

9       (8) less than 3 grams of any substance containing  
10       phencyclidine or any of the salts, isomers and salts of  
11       isomers of phencyclidine (PCP), or an analog thereof;

12       (9) less than 3 grams of any substance containing  
13       ketamine or any of the salts, isomers and salts of isomers  
14       of ketamine;

15       (10) (i) less than 4 grams of any substance containing  
16       hydrocodone, dihydrocodeine, oxycodone, or any of the  
17       salts, isomers, and salts of isomers of hydrocodone,  
18       dihydrocodeine, or oxycodone, or an analog thereof; or (ii)  
19       less than 40 pills, tablets, caplets, capsules, or objects  
20       containing hydrocodone, dihydrocodeine, oxycodone, or any  
21       of the salts, isomers, and salts of isomers of hydrocodone,  
22       dihydrocodeine, or oxycodone, or an analog of hydrocodone,  
23       dihydrocodeine, or oxycodone.

24       (b) Any person sentenced with respect to violations of  
25       paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
26       involving 100 grams or more of the controlled substance named

1 therein, may in addition to the penalties provided therein, be  
2 fined an amount not to exceed \$200,000 or the full street value  
3 of the controlled or counterfeit substances, whichever is  
4 greater. The term "street value" shall have the meaning  
5 ascribed in Section 110-5 of the Code of Criminal Procedure of  
6 1963. Any person sentenced with respect to any other provision  
7 of subsection (a), may in addition to the penalties provided  
8 therein, be fined an amount not to exceed \$200,000.

9 (c) Any person who violates this Section with regard to an  
10 amount of a controlled substance other than methamphetamine or  
11 counterfeit substance not set forth in subsection (a), (a-1),  
12 (a-5), or (d) is guilty of a Class A misdemeanor. ~~Class 4~~  
13 ~~felony. The fine for a violation punishable under this~~  
14 ~~subsection (c) shall not be more than \$25,000.~~

15 (d) Any person who violates this Section with regard to any  
16 amount of anabolic steroid is guilty of a Class C misdemeanor  
17 for the first offense and a Class B misdemeanor for a  
18 subsequent offense committed within 2 years of a prior  
19 conviction.

20 (Source: P.A. 99-371, eff. 1-1-16; 100-368, eff. 1-1-18.)

21 (720 ILCS 570/408) (from Ch. 56 1/2, par. 1408)

22 Sec. 408. Second or subsequent offense; penalties.

23 (a) Any person convicted of a second or subsequent felony  
24 offense under this Act may be sentenced to imprisonment for a  
25 term up to twice the maximum term otherwise authorized, fined



1 an amount up to twice that otherwise authorized, or both.

2 (b) For purposes of this Section, an offense is considered  
3 a second or subsequent felony offense, if, prior to his or her  
4 conviction of the offense, the person:

5 (1) has been convicted, subsequent to the effective  
6 date of this amendatory Act of the 101st General Assembly,  
7 of a felony violation of this Act or the Methamphetamine  
8 Control and Community Protection Act or under any  
9 substantially similar law of the United States or of any  
10 state relating to controlled substances; or

11 (2) has been convicted at any time been convicted of a  
12 Class 1 or higher felony violation of under this Act or the  
13 Methamphetamine Control and Community Protection Act or  
14 under any substantially similar law of the United States or  
15 of any state relating to controlled substances. ~~offender~~  
16 ~~has at any time been convicted under this Act or under any~~  
17 ~~law of the United States or of any State relating to~~  
18 ~~controlled substances.~~

19 (Source: P.A. 97-334, eff. 1-1-12.)

20 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

21 Sec. 410. (a) Whenever any person who has not previously  
22 been convicted of any felony offense under this Act or any law  
23 of the United States or of any State relating to cannabis or  
24 controlled substances, pleads guilty to or is found guilty of  
25 possession of a controlled or counterfeit substance under

1 subsection (a-1) ~~(e)~~ of Section 402 or of unauthorized  
2 possession of prescription form under Section 406.2, the court,  
3 without entering a judgment and with the consent of such  
4 person, may sentence him or her to probation.

5 (a-1) Notwithstanding subsection (a), a defendant shall  
6 not be ineligible for a sentence of probation under this  
7 Section as a result of having been previously convicted of a  
8 Class 4 felony violation of Section 402 of the Illinois  
9 Controlled Substances Act or a Class 3 felony violation of  
10 Section 60 of the Methamphetamine Control and Community  
11 Protection Act prior to the effective date of this amendatory  
12 Act of the 101st General Assembly.

13 (b) When a person is placed on probation, the court shall  
14 enter an order specifying a period of probation of 24 months  
15 and shall defer further proceedings in the case until the  
16 conclusion of the period or until the filing of a petition  
17 alleging violation of a term or condition of probation.

18 (c) The conditions of probation shall be that the person:  
19 (1) not violate any criminal statute of any jurisdiction; (2)  
20 refrain from possessing a firearm or other dangerous weapon;  
21 (3) submit to periodic drug testing at a time and in a manner  
22 as ordered by the court, but no less than 3 times during the  
23 period of the probation, with the cost of the testing to be  
24 paid by the probationer; and (4) perform no less than 30 hours  
25 of community service, provided community service is available  
26 in the jurisdiction and is funded and approved by the county

1 board. The court may give credit toward the fulfillment of  
2 community service hours for participation in activities and  
3 treatment as determined by court services.

4 (d) The court may, in addition to other conditions, require  
5 that the person:

6 (1) make a report to and appear in person before or  
7 participate with the court or such courts, person, or  
8 social service agency as directed by the court in the order  
9 of probation;

10 (2) pay a fine and costs;

11 (3) work or pursue a course of study or vocational  
12 training;

13 (4) undergo medical or psychiatric treatment; or  
14 treatment or rehabilitation approved by the Illinois  
15 Department of Human Services;

16 (5) attend or reside in a facility established for the  
17 instruction or residence of defendants on probation;

18 (6) support his or her dependents;

19 (6-5) refrain from having in his or her body the  
20 presence of any illicit drug prohibited by the Cannabis  
21 Control Act, the Illinois Controlled Substances Act, or the  
22 Methamphetamine Control and Community Protection Act,  
23 unless prescribed by a physician, and submit samples of his  
24 or her blood or urine or both for tests to determine the  
25 presence of any illicit drug;

26 (7) and in addition, if a minor:

1 (i) reside with his or her parents or in a foster  
2 home;

3 (ii) attend school;

4 (iii) attend a non-residential program for youth;

5 (iv) contribute to his or her own support at home  
6 or in a foster home.

7 (e) Upon violation of a term or condition of probation, the  
8 court may enter a judgment on its original finding of guilt and  
9 proceed as otherwise provided.

10 (f) Upon fulfillment of the terms and conditions of  
11 probation, the court shall discharge the person and dismiss the  
12 proceedings against him or her.

13 (g) A disposition of probation is considered to be a  
14 conviction for the purposes of imposing the conditions of  
15 probation and for appeal, however, discharge and dismissal  
16 under this Section is not a conviction for purposes of this Act  
17 or for purposes of disqualifications or disabilities imposed by  
18 law upon conviction of a crime.

19 (h) A person may not have more than one discharge and  
20 dismissal under this Section within a 4-year period.

21 (i) If a person is convicted of an offense under this Act,  
22 the Cannabis Control Act, or the Methamphetamine Control and  
23 Community Protection Act within 5 years subsequent to a  
24 discharge and dismissal under this Section, the discharge and  
25 dismissal under this Section shall be admissible in the  
26 sentencing proceeding for that conviction as evidence in

1     aggravation.

2           (j) Notwithstanding subsection (a), before a person is  
3     sentenced to probation under this Section, the court may refer  
4     the person to the drug court established in that judicial  
5     circuit pursuant to Section 15 of the Drug Court Treatment Act.  
6     The drug court team shall evaluate the person's likelihood of  
7     successfully completing a sentence of probation under this  
8     Section and shall report the results of its evaluation to the  
9     court. If the drug court team finds that the person suffers  
10    from a substance abuse problem that makes him or her  
11    substantially unlikely to successfully complete a sentence of  
12    probation under this Section, then the drug court shall set  
13    forth its findings in the form of a written order, and the  
14    person shall not be sentenced to probation under this Section,  
15    but shall be considered for the drug court program.

16    (Source: P.A. 99-480, eff. 9-9-15; 100-3, eff. 1-1-18; 100-575,  
17    eff. 1-8-18.)

18           Section 20. The Methamphetamine Control and Community  
19    Protection Act is amended by changing Sections 60 and 70 as  
20    follows:

21           (720 ILCS 646/60)

22           Sec. 60. Methamphetamine possession.

23           (a) It is unlawful knowingly to possess methamphetamine or  
24    a substance containing methamphetamine.

1 (b) A person who violates subsection (a) is subject to the  
2 following penalties:

3 (1) A person who possesses less than 3 ~~5~~ grams of  
4 methamphetamine or a substance containing methamphetamine  
5 is guilty of a Class A misdemeanor ~~3 felony~~.

6 (2) A person who possesses 3 ~~5~~ or more grams but less  
7 than 15 grams of methamphetamine or a substance containing  
8 methamphetamine is guilty of a Class 4 ~~2~~ felony.

9 (3) A person who possesses 15 or more grams but less  
10 than 100 grams of methamphetamine or a substance containing  
11 methamphetamine is guilty of a Class 1 felony.

12 (4) A person who possesses 100 or more grams but less  
13 than 400 grams of methamphetamine or a substance containing  
14 methamphetamine is guilty of a Class X felony, subject to a  
15 term of imprisonment of not less than 6 years and not more  
16 than 30 years, and subject to a fine not to exceed  
17 \$100,000.

18 (5) A person who possesses 400 or more grams but less  
19 than 900 grams of methamphetamine or a substance containing  
20 methamphetamine is guilty of a Class X felony, subject to a  
21 term of imprisonment of not less than 8 years and not more  
22 than 40 years, and subject to a fine not to exceed  
23 \$200,000.

24 (6) A person who possesses 900 or more grams of  
25 methamphetamine or a substance containing methamphetamine  
26 is guilty of a Class X felony, subject to a term of

1           imprisonment of not less than 10 years and not more than 50  
2           years, and subject to a fine not to exceed \$300,000.

3           (Source: P.A. 94-556, eff. 9-11-05.)

4           (720 ILCS 646/70)

5           Sec. 70. Probation.

6           (a) Whenever any person who has not previously been  
7 convicted of any felony offense under this Act, the Illinois  
8 Controlled Substances Act, the Cannabis Control Act, or any law  
9 of the United States or of any state relating to cannabis or  
10 controlled substances, pleads guilty to or is found guilty of  
11 felony possession of ~~less than 15 grams of~~ methamphetamine  
12 under paragraph ~~(1) or~~ (2) of subsection (b) of Section 60 of  
13 this Act, the court, without entering a judgment and with the  
14 consent of the person, may sentence him or her to probation.

15           (a-1) Notwithstanding subsection (a), a defendant shall  
16 not be ineligible for a sentence of probation under this  
17 Section as a result of having been previously convicted of a  
18 Class 4 felony violation of Section 402 of the Illinois  
19 Controlled Substances Act or a Class 3 felony violation of  
20 Section 60 of the Methamphetamine Control and Community  
21 Protection Act prior to the effective date of this amendatory  
22 Act of the 101st General Assembly.

23           (b) When a person is placed on probation, the court shall  
24 enter an order specifying a period of probation of 24 months  
25 and shall defer further proceedings in the case until the

1 conclusion of the period or until the filing of a petition  
2 alleging violation of a term or condition of probation.

3 (c) The conditions of probation shall be that the person:

4 (1) not violate any criminal statute of any  
5 jurisdiction;

6 (2) refrain from possessing a firearm or other  
7 dangerous weapon;

8 (3) submit to periodic drug testing at a time and in a  
9 manner as ordered by the court, but no less than 3 times  
10 during the period of the probation, with the cost of the  
11 testing to be paid by the probationer; and

12 (4) perform no less than 30 hours of community service,  
13 if community service is available in the jurisdiction and  
14 is funded and approved by the county board. The court may  
15 give credit toward the fulfillment of community service  
16 hours for participation in activities and treatment as  
17 determined by court services.

18 (d) The court may, in addition to other conditions, require  
19 that the person take one or more of the following actions:

20 (1) make a report to and appear in person before or  
21 participate with the court or such courts, person, or  
22 social service agency as directed by the court in the order  
23 of probation;

24 (2) pay a fine and costs;

25 (3) work or pursue a course of study or vocational  
26 training;



1           (4) undergo medical or psychiatric treatment; or  
2           treatment or rehabilitation approved by the Illinois  
3           Department of Human Services;

4           (5) attend or reside in a facility established for the  
5           instruction or residence of defendants on probation;

6           (6) support his or her dependents;

7           (7) refrain from having in his or her body the presence  
8           of any illicit drug prohibited by this Act, the Cannabis  
9           Control Act, or the Illinois Controlled Substances Act,  
10          unless prescribed by a physician, and submit samples of his  
11          or her blood or urine or both for tests to determine the  
12          presence of any illicit drug; or

13          (8) if a minor:

14               (i) reside with his or her parents or in a foster  
15               home;

16               (ii) attend school;

17               (iii) attend a non-residential program for youth;

18          or

19               (iv) contribute to his or her own support at home  
20               or in a foster home.

21          (e) Upon violation of a term or condition of probation, the  
22          court may enter a judgment on its original finding of guilt and  
23          proceed as otherwise provided.

24          (f) Upon fulfillment of the terms and conditions of  
25          probation, the court shall discharge the person and dismiss the  
26          proceedings against the person.

1           (g) A disposition of probation is considered to be a  
2 conviction for the purposes of imposing the conditions of  
3 probation and for appeal, however, discharge and dismissal  
4 under this Section is not a conviction for purposes of this Act  
5 or for purposes of disqualifications or disabilities imposed by  
6 law upon conviction of a crime.

7           (h) A person may not have more than one discharge and  
8 dismissal under this Section within a 4-year period.

9           (i) If a person is convicted of an offense under this Act,  
10 the Cannabis Control Act, or the Illinois Controlled Substances  
11 Act within 5 years subsequent to a discharge and dismissal  
12 under this Section, the discharge and dismissal under this  
13 Section are admissible in the sentencing proceeding for that  
14 conviction as evidence in aggravation.

15           (j) Notwithstanding subsection (a), before a person is  
16 sentenced to probation under this Section, the court may refer  
17 the person to the drug court established in that judicial  
18 circuit pursuant to Section 15 of the Drug Court Treatment Act.  
19 The drug court team shall evaluate the person's likelihood of  
20 successfully completing a sentence of probation under this  
21 Section and shall report the results of its evaluation to the  
22 court. If the drug court team finds that the person suffers  
23 from a substance abuse problem that makes him or her  
24 substantially unlikely to successfully complete a sentence of  
25 probation under this Section, then the drug court shall set  
26 forth its findings in the form of a written order, and the

1 person shall not be sentenced to probation under this Section,  
2 but shall be considered for the drug court program.

3 (Source: P.A. 99-480, eff. 9-9-15; 100-3, eff. 1-1-18; 100-575,  
4 eff. 1-8-18.)

5 Section 25. The Code of Criminal Procedure of 1963 is  
6 amended by adding Section 116-2.2 as follows:

7 (725 ILCS 5/116-2.2 new)

8 Sec. 116-2.2. Retroactive resentencing.

9 (a) A person serving a sentence for an offense for which  
10 the statutory penalty has been subsequently reduced under this  
11 amendatory Act of the 101st General Assembly may petition the  
12 trial court that entered the judgment of conviction to request  
13 resentencing in accordance with the statutory penalty in effect  
14 at the time of the filing of the petition.

15 (b) If the petition satisfies the criteria in subsection  
16 (a), then a new sentencing hearing shall be held in accordance  
17 with the Unified Code of Corrections. At the hearing, both the  
18 defendant and the State may offer evidence of the defendant's  
19 conduct during his or her period of absence from the court. The  
20 court may impose any sentence authorized by the Unified Code of  
21 Corrections and is not in any way limited or restricted by any  
22 sentence previously imposed, except that resentencing under  
23 this Section may not result in the imposition of a term of  
24 imprisonment longer than the original sentence. A person who is

1 resentenced under this subsection (b) shall be given credit for  
2 time served.

3 (c) A person who has completed his or her sentence for a  
4 conviction of a felony offense for which the statutory penalty  
5 has been subsequently reduced to a misdemeanor under this  
6 amendatory Act of the 101st General Assembly may petition the  
7 trial court that entered the judgment of conviction to  
8 designate the felony conviction as a misdemeanor.

9 (d) If the petition satisfies the criteria in subsection  
10 (c), then the court shall enter an order providing that the  
11 felony offense of which the person was previously convicted is  
12 designated as a misdemeanor under this Section.

13 Section 30. The Unified Code of Corrections is amended by  
14 changing Sections 5-6-3.3 and 5-6-3.4 and by adding Section  
15 5-6-3.7 as follows:

16 (730 ILCS 5/5-6-3.3)

17 Sec. 5-6-3.3. Offender Initiative Program.

18 (a) Statement of purpose. The General Assembly seeks to  
19 continue other successful programs that promote public safety,  
20 conserve valuable resources, and reduce recidivism by  
21 defendants who can lead productive lives by creating the  
22 Offender Initiative Program.

23 (a-1) Whenever any person who has not previously been  
24 convicted of any felony offense under the laws of this State,

1 the laws of any other state, or the laws of the United States,  
2 is arrested for and charged with a probationable felony offense  
3 of theft, retail theft, forgery, possession of a stolen motor  
4 vehicle, burglary, possession of burglary tools, deceptive  
5 practices, disorderly conduct, criminal damage or trespass to  
6 property under Article 21 of the Criminal Code of 2012,  
7 criminal trespass to a residence, obstructing justice, ~~or~~ an  
8 offense involving fraudulent identification, or a  
9 probationable felony offense of possession of cannabis,  
10 possession of a controlled substance, or possession of  
11 methamphetamine, the court, with the consent of the defendant  
12 and the State's Attorney, may continue this matter to allow a  
13 defendant to participate and complete the Offender Initiative  
14 Program.

15 (a-2) Exemptions. A defendant shall not be eligible for  
16 this Program if the offense he or she has been arrested for and  
17 charged with is a violent offense. For purposes of this  
18 Program, a "violent offense" is any offense where bodily harm  
19 was inflicted or where force was used against any person or  
20 threatened against any person, any offense involving sexual  
21 conduct, sexual penetration, or sexual exploitation, any  
22 offense of domestic violence, domestic battery, violation of an  
23 order of protection, stalking, hate crime, and any offense  
24 involving the possession of a firearm or dangerous weapon. A  
25 defendant shall not be eligible for this Program if he or she  
26 has previously been adjudicated a delinquent minor for the

1 commission of a violent offense as defined in this subsection.

2 (a-3) Notwithstanding subsection (a-1), a defendant shall  
3 not be ineligible for participation in the Program as a result  
4 of having been previously convicted of a Class 4 felony  
5 violation of Section 402 of the Illinois Controlled Substances  
6 Act or a Class 3 felony violation of Section 60 of the  
7 Methamphetamine Control and Community Protection Act prior to  
8 the effective date of this amendatory Act of the 101st General  
9 Assembly.

10 (b) When a defendant is placed in the Program, after both  
11 the defendant and State's Attorney waive preliminary hearing  
12 pursuant to Section 109-3 of the Code of Criminal Procedure of  
13 1963, the court shall enter an order specifying that the  
14 proceedings shall be suspended while the defendant is  
15 participating in a Program of not less 12 months.

16 (c) The conditions of the Program shall be that the  
17 defendant:

18 (1) not violate any criminal statute of this State or  
19 any other jurisdiction;

20 (2) refrain from possessing a firearm or other  
21 dangerous weapon;

22 (3) make full restitution to the victim or property  
23 owner pursuant to Section 5-5-6 of this Code;

24 (4) obtain employment or perform not less than 30 hours  
25 of community service, provided community service is  
26 available in the county and is funded and approved by the

1 county board; and

2 (5) attend educational courses designed to prepare the  
3 defendant for obtaining a high school diploma or to work  
4 toward passing high school equivalency testing or to work  
5 toward completing a vocational training program.

6 (c-1) The court may give credit toward the fulfillment of  
7 community service hours for participation in activities and  
8 treatment as determined by court services.

9 (d) The court may, in addition to other conditions, require  
10 that the defendant:

11 (1) undergo medical or psychiatric treatment, or  
12 treatment or rehabilitation approved by the Illinois  
13 Department of Human Services;

14 (2) refrain from having in his or her body the presence  
15 of any illicit drug prohibited by the Methamphetamine  
16 Control and Community Protection Act, the Cannabis Control  
17 Act or the Illinois Controlled Substances Act, unless  
18 prescribed by a physician, and submit samples of his or her  
19 blood or urine or both for tests to determine the presence  
20 of any illicit drug;

21 (3) submit to periodic drug testing at a time, manner,  
22 and frequency as ordered by the court;

23 (4) pay fines, fees and costs; and

24 (5) in addition, if a minor:

25 (i) reside with his or her parents or in a foster  
26 home;

- 1                   (ii) attend school;
- 2                   (iii) attend a non-residential program for youth;
- 3                   or
- 4                   (iv) contribute to his or her own support at home
- 5                   or in a foster home.

6           (e) When the State's Attorney makes a factually specific  
7 offer of proof that the defendant has failed to successfully  
8 complete the Program or has violated any of the conditions of  
9 the Program, the court shall enter an order that the defendant  
10 has not successfully completed the Program and continue the  
11 case for arraignment pursuant to Section 113-1 of the Code of  
12 Criminal Procedure of 1963 for further proceedings as if the  
13 defendant had not participated in the Program.

14           (f) Upon fulfillment of the terms and conditions of the  
15 Program, the State's Attorney shall dismiss the case or the  
16 court shall discharge the person and dismiss the proceedings  
17 against the person.

18           (g) A person may only have one discharge and dismissal  
19 under this Section within a 4-year period.

20           (h) Notwithstanding subsection (a-1), if the court finds  
21 that the defendant suffers from a substance abuse problem, then  
22 before the person participates in the Program under this  
23 Section, the court may refer the person to the drug court  
24 established in that judicial circuit pursuant to Section 15 of  
25 the Drug Court Treatment Act. The drug court team shall  
26 evaluate the person's likelihood of successfully fulfilling



1 the terms and conditions of the Program under this Section and  
2 shall report the results of its evaluation to the court. If the  
3 drug court team finds that the person suffers from a substance  
4 abuse problem that makes him or her substantially unlikely to  
5 successfully fulfill the terms and conditions of the Program,  
6 then the drug court shall set forth its findings in the form of  
7 a written order, and the person shall be ineligible to  
8 participate in the Program under this Section, but shall be  
9 considered for the drug court program.

10 (Source: P.A. 99-480, eff. 9-9-15; 100-3, eff. 1-1-18; 100-575,  
11 eff. 1-8-18.)

12 (730 ILCS 5/5-6-3.4)

13 Sec. 5-6-3.4. Second Chance Probation.

14 (a) Whenever any person who has not previously been  
15 convicted of any felony offense under the laws of this State,  
16 the laws of any other state, or the laws of the United States,  
17 and pleads guilty to, or is found guilty of, ~~possession of less~~  
18 ~~than 15 grams of a controlled substance; possession of less~~  
19 ~~than 15 grams of methamphetamine; or~~ a probationable felony  
20 violation offense of Section 402 of the Illinois Controlled  
21 Substances Act, a probationable felony violation of Section 60  
22 of the Methamphetamine Control and Community Protection Act, or  
23 a probationable felony offense of possession of cannabis,  
24 theft, retail theft, forgery, deceptive practices, possession  
25 of a stolen motor vehicle, burglary, possession of burglary

1 tools, disorderly conduct, criminal damage or trespass to  
2 property under Article 21 of the Criminal Code of 2012,  
3 criminal trespass to a residence, an offense involving  
4 fraudulent identification, or obstructing justice; or  
5 possession of cannabis, the court, with the consent of the  
6 defendant and the State's Attorney, may, without entering a  
7 judgment, sentence the defendant to probation under this  
8 Section.

9 (a-1) Exemptions. A defendant is not eligible for this  
10 probation if the offense he or she pleads guilty to, or is  
11 found guilty of, is a violent offense, or he or she has  
12 previously been convicted of a violent offense. For purposes of  
13 this probation, a "violent offense" is any offense where bodily  
14 harm was inflicted or where force was used against any person  
15 or threatened against any person, any offense involving sexual  
16 conduct, sexual penetration, or sexual exploitation, any  
17 offense of domestic violence, domestic battery, violation of an  
18 order of protection, stalking, hate crime, and any offense  
19 involving the possession of a firearm or dangerous weapon. A  
20 defendant shall not be eligible for this probation if he or she  
21 has previously been adjudicated a delinquent minor for the  
22 commission of a violent offense as defined in this subsection.

23 (a-2) Notwithstanding subsection (a-1), a defendant shall  
24 not be ineligible for a sentence of probation under this  
25 Section as a result of having been previously convicted of a  
26 Class 4 felony violation of Section 402 of the Illinois

1 Controlled Substances Act or a Class 3 felony violation of  
2 Section 60 of the Methamphetamine Control and Community  
3 Protection Act prior to the effective date of this amendatory  
4 Act of the 101st General Assembly.

5 (b) When a defendant is placed on probation, the court  
6 shall enter an order specifying a period of probation of not  
7 less than 24 months and shall defer further proceedings in the  
8 case until the conclusion of the period or until the filing of  
9 a petition alleging violation of a term or condition of  
10 probation.

11 (c) The conditions of probation shall be that the  
12 defendant:

13 (1) not violate any criminal statute of this State or  
14 any other jurisdiction;

15 (2) refrain from possessing a firearm or other  
16 dangerous weapon;

17 (3) make full restitution to the victim or property  
18 owner under Section 5-5-6 of this Code;

19 (4) obtain or attempt to obtain employment;

20 (5) pay fines and costs;

21 (6) attend educational courses designed to prepare the  
22 defendant for obtaining a high school diploma or to work  
23 toward passing high school equivalency testing or to work  
24 toward completing a vocational training program;

25 (7) submit to periodic drug testing at a time and in a  
26 manner as ordered by the court, but no less than 3 times

1 during the period of probation, with the cost of the  
2 testing to be paid by the defendant; and

3 (8) perform a minimum of 30 hours of community service.  
4 The court may give credit toward the fulfillment of  
5 community service hours for participation in activities  
6 and treatment as determined by court services.

7 (d) The court may, in addition to other conditions, require  
8 that the defendant:

9 (1) make a report to and appear in person before or  
10 participate with the court or such courts, person, or  
11 social service agency as directed by the court in the order  
12 of probation;

13 (2) undergo medical or psychiatric treatment, or  
14 treatment or rehabilitation approved by the Illinois  
15 Department of Human Services;

16 (3) attend or reside in a facility established for the  
17 instruction or residence of defendants on probation;

18 (4) support his or her dependents; or

19 (5) refrain from having in his or her body the presence  
20 of any illicit drug prohibited by the Methamphetamine  
21 Control and Community Protection Act, the Cannabis Control  
22 Act, or the Illinois Controlled Substances Act, unless  
23 prescribed by a physician, and submit samples of his or her  
24 blood or urine or both for tests to determine the presence  
25 of any illicit drug.

26 (e) Upon violation of a term or condition of probation, the

1 court may enter a judgment on its original finding of guilt and  
2 proceed as otherwise provided by law.

3 (f) Upon fulfillment of the terms and conditions of  
4 probation, the court shall discharge the person and dismiss the  
5 proceedings against the person.

6 (g) A disposition of probation is considered to be a  
7 conviction for the purposes of imposing the conditions of  
8 probation and for appeal; however, a discharge and dismissal  
9 under this Section is not a conviction for purposes of this  
10 Code or for purposes of disqualifications or disabilities  
11 imposed by law upon conviction of a crime.

12 (h) A person may only have one discharge and dismissal  
13 under this Section within a 4-year period.

14 (i) If a person is convicted of any offense which occurred  
15 within 5 years subsequent to a discharge and dismissal under  
16 this Section, the discharge and dismissal under this Section  
17 shall be admissible in the sentencing proceeding for that  
18 conviction as evidence in aggravation.

19 (j) Notwithstanding subsection (a), if the court finds that  
20 the defendant suffers from a substance abuse problem, then  
21 before the person is placed on probation under this Section,  
22 the court may refer the person to the drug court established in  
23 that judicial circuit pursuant to Section 15 of the Drug Court  
24 Treatment Act. The drug court team shall evaluate the person's  
25 likelihood of successfully fulfilling the terms and conditions  
26 of probation under this Section and shall report the results of

1 its evaluation to the court. If the drug court team finds that  
2 the person suffers from a substance abuse problem that makes  
3 him or her substantially unlikely to successfully fulfill the  
4 terms and conditions of probation under this Section, then the  
5 drug court shall set forth its findings in the form of a  
6 written order, and the person shall be ineligible to be placed  
7 on probation under this Section, but shall be considered for  
8 the drug court program.

9 (Source: P.A. 99-480, eff. 9-9-15; 100-3, eff. 1-1-18; 100-575,  
10 eff. 1-8-18.)

11 (730 ILCS 5/5-6-3.7 new)

12 Sec. 5-6-3.7. Misdemeanor diversion program.

13 (a) The General Assembly seeks to promote public safety,  
14 conserve valuable resources, and reduce recidivism by  
15 establishing a Misdemeanor Diversion Program.

16 (b) In this Section:

17 (1) "Appropriate and accessible" means an organization  
18 providing services that are likely to be needed by a  
19 participant in the Program, and whose location and hours of  
20 service make transportation to and from reasonable for the  
21 participant.

22 (2) "Human services organization" means any  
23 organization equipped to provide screening services  
24 described in paragraph (2) of subsection (e) or authorized  
25 by the State to perform behavioral health treatment or

1 substance use intervention and treatment or other social  
2 services, including, but not limited to, homeless  
3 services, education, and job training and placement.

4 (3) "Violent offense" means any offense in which bodily  
5 harm was inflicted or in which force was used against any  
6 person or threatened against any person, any offense  
7 involving sexual conduct, sexual penetration, or sexual  
8 exploitation, any offense of domestic violence, domestic  
9 battery, violation of an order of protection, stalking, or  
10 hate crime.

11 (c) Any circuit court or the State's Attorney of any county  
12 may establish a Misdemeanor Diversion Program in accordance  
13 with this Section.

14 (d) Whenever any person who does not have a felony case  
15 pending is arrested for and charged with a misdemeanor offense  
16 that is not a violent offense and does not involve the  
17 possession of a firearm or dangerous weapon, the court, with  
18 the consent of the defendant, may suspend the proceedings prior  
19 to the entry of a finding of guilt or plea of guilty to  
20 ascertain the defendant's eligibility to participate in and  
21 complete the Misdemeanor Diversion Program. If the Program was  
22 established by the State's Attorney, then except as otherwise  
23 provided in this subsection (d), the defendant's eligibility to  
24 participate in the Program shall be within the discretion of  
25 the State's Attorney.

26 (e) The State's Attorney shall be responsible for

1 identifying eligible defendants. Placement into the Program  
2 shall include the following:

3 (1) At the defendant's initial court appearance  
4 appearance or soon as the defendant's eligibility for the  
5 Program may be ascertained, the State's Attorney shall  
6 inform the defendant of the existence of the Program, the  
7 need for a preliminary screen for behavioral health or  
8 other social service needs, the requirements for  
9 successful completion, the implications of non-compliance,  
10 and that successful completion shall result in dismissal of  
11 the charge and the defendant's eligibility to petition for  
12 sealing or expungement of his or her record with no waiting  
13 period.

14 (2) If the defendant agrees, the defendant shall be  
15 immediately referred to a human services organization that  
16 shall perform a brief screening to determine the presence  
17 of any substance use, mental health, or other social  
18 service needs experienced by the defendant.

19 (3) If the screen does not indicate the defendant's  
20 need for services, the court shall continue the case for  
21 further proceedings under the Code of Criminal Procedure of  
22 1963.

23 (4) If the screen indicates a need for services, the  
24 defendant shall be considered eligible for participation.  
25 Participation is voluntary. To participate, the defendant  
26 shall sign a written agreement with the court that he or



1 she understands and agrees to the conditions of  
2 participation, as set forth in subsection (f) of this  
3 Section.

4 (5) Upon acceptance of the agreement by the court, the  
5 human services organization responsible for the screening  
6 shall refer the defendant to an appropriate and accessible  
7 human services organization responsible for conducting a  
8 comprehensive assessment and developing a service plan, as  
9 described in subsection (f) of this Section.

10 (6) At such time as it is known, the human services  
11 organization responsible for the screening shall report to  
12 the court that the individual has successfully or  
13 unsuccessfully completed the conditions of participation.

14 (f) The defendant shall agree to submit to a more  
15 comprehensive assessment of behavioral health and other social  
16 service needs conducted by the human services organization to  
17 which the defendant is referred. As a result of this  
18 assessment, the organization shall prepare recommendations for  
19 treatment and other social services which would likely benefit  
20 the defendant, which the human services organization shall  
21 present to and discuss with the defendant who may agree to  
22 pursue treatment voluntarily. Adherence to the service plan  
23 recommendations may not be a condition of participation.  
24 Completion of all of the conditions of participation shall  
25 occur no more than 90 days from the date of admission into the  
26 Program.

1       (g) Under no circumstances shall the human services  
2 organization performing either the brief screening, referral,  
3 and reporting under subsection (e) or the assessment and  
4 service recommendations under subsection (f) be required to  
5 perform those services in the absence of reimbursement for  
6 those services. The human services organization may already  
7 have an existing mechanism for reimbursement, or a new  
8 mechanism may be created by way of agreement with the court,  
9 the State's Attorney, or the jurisdiction in which the  
10 Misdemeanor Diversion Program was developed specifically for  
11 the purposes of the Program.

12       (h) If all conditions of participation have been met, the  
13 defendant shall be deemed to have successfully completed the  
14 Program and the court shall dismiss the proceedings against the  
15 defendant. Discharge and dismissal shall not be considered a  
16 conviction for purposes of disqualification or disability  
17 imposed by law upon conviction of a crime.

18       (i) Non-compliance with the conditions of participation,  
19 or failure to complete the conditions of participation within  
20 90 days, shall be considered a violation and the court shall  
21 continue the case for further proceedings under the Code of  
22 Criminal Procedure of 1963, as if the defendant had not  
23 participated in the Program."