



Rep. Carol Ammons

Filed: 3/5/2020

10100HB2291ham002

LRB101 09407 RLC 71257 a

1 AMENDMENT TO HOUSE BILL 2291

2 AMENDMENT NO. _____. Amend House Bill 2291, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 2630/5.2)

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

9 (a) General Provisions.

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

13 (A) The following terms shall have the meanings
14 ascribed to them in the Unified Code of Corrections,
15 730 ILCS 5/5-1-2 through 5/5-1-22:

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

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

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

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

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

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

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

24 (F) As used in this Section, "last sentence" means
25 the sentence, order of supervision, or order of
26 qualified probation (as defined by subsection

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

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

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

25 (H) "Municipal ordinance violation" means an
26 offense defined by a municipal or local ordinance that

1 is criminal in nature and with which the petitioner was
2 charged or for which the petitioner was arrested and
3 released without charging.

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

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

25 (K) "Seal" means to physically and electronically
26 maintain the records, unless the records would

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

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

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

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

24 (2.5) Commencing 180 days after July 29, 2016 (the
25 effective date of Public Act 99-697), the law enforcement
26 agency issuing the citation shall automatically expunge,

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

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

26 (A) the sealing or expungement of the records of

1 arrests or charges not initiated by arrest that result
2 in an order of supervision for or conviction of: (i)
3 any sexual offense committed against a minor; (ii)
4 Section 11-501 of the Illinois Vehicle Code or a
5 similar provision of a local ordinance; or (iii)
6 Section 11-503 of the Illinois Vehicle Code or a
7 similar provision of a local ordinance, unless the
8 arrest or charge is for a misdemeanor violation of
9 subsection (a) of Section 11-503 or a similar provision
10 of a local ordinance, that occurred prior to the
11 offender reaching the age of 25 years and the offender
12 has no other conviction for violating Section 11-501 or
13 11-503 of the Illinois Vehicle Code or a similar
14 provision of a local ordinance.

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

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

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

1 Section 11-30 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, or a similar provision of a
3 local ordinance;

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

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

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

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

18 (D) (blank).

19 (b) Expungement.

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

1 by subsection (a) (3) (B); (iii) an order of supervision and
2 such supervision was successfully completed by the
3 petitioner, unless excluded by subsection (a) (3) (A) or
4 (a) (3) (B); ~~or~~ (iv) an order of qualified probation (as
5 defined in subsection (a) (1) (J)) and such probation was
6 successfully completed by the petitioner; (v) an order of
7 misdemeanor diversion under Section 5-6-3.7 of the Unified
8 Code of Corrections, and the diversion program was
9 successfully completed by the petitioner; (vi) a
10 conviction pursuant to subsection (a-5) of Section 402 of
11 the Illinois Controlled Substances Act; (vii) a conviction
12 pursuant to paragraph (1) of subsection (b) of Section 60
13 of the Methamphetamine Control and Community Protection
14 Act; or (viii) a conviction where the statutory penalty
15 changed as a result of a resentencing hearing pursuant to
16 Section 116-2.2 of the Code of Criminal Procedure of 1963.

17 (1.5) When a petitioner seeks to have a record of
18 arrest expunged under this Section, and the offender has
19 been convicted of a criminal offense, the State's Attorney
20 may object to the expungement on the grounds that the
21 records contain specific relevant information aside from
22 the mere fact of the arrest.

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

24 (A) When the arrest or charge not initiated by
25 arrest sought to be expunged resulted in an acquittal,
26 dismissal, the petitioner's release without charging,

1 or the reversal or vacation of a conviction, there is
2 no waiting period to petition for the expungement of
3 such records.

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

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

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

1 shall not be eligible for expungement until the
2 petitioner has reached the age of 25 years.

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

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

14 (D) When the arrest or charge not initiated by
15 arrest sought to be expunged, pursuant to subparagraph
16 (viii) of paragraph (1) of this subsection (b) resulted
17 in a sentence of probation, successfully completed by
18 the petitioner, or incarceration in an Illinois county
19 jail or in the Illinois Department of Corrections, such
20 records shall not be eligible for expungement until 5
21 years have passed following the satisfactory
22 termination of probation.

23 (E) When the arrest or charge not initiated by
24 arrest sought to be expunged pursuant to subparagraph
25 (vi) or (vii) of paragraph (1) of this subsection (b)
26 resulted in a sentence of incarceration in an Illinois

1 county jail, such records shall not be eligible for
2 expungement until 5 years have passed following the
3 completion of the sentence.

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

8 (4) Whenever a person has been arrested for or
9 convicted of any offense, in the name of a person whose
10 identity he or she has stolen or otherwise come into
11 possession of, the aggrieved person from whom the identity
12 was stolen or otherwise obtained without authorization,
13 upon learning of the person having been arrested using his
14 or her identity, may, upon verified petition to the chief
15 judge of the circuit wherein the arrest was made, have a
16 court order entered nunc pro tunc by the Chief Judge to
17 correct the arrest record, conviction record, if any, and
18 all official records of the arresting authority, the
19 Department, other criminal justice agencies, the
20 prosecutor, and the trial court concerning such arrest, if
21 any, by removing his or her name from all such records in
22 connection with the arrest and conviction, if any, and by
23 inserting in the records the name of the offender, if known
24 or ascertainable, in lieu of the aggrieved's name. The
25 records of the circuit court clerk shall be sealed until
26 further order of the court upon good cause shown and the

1 name of the aggrieved person obliterated on the official
2 index required to be kept by the circuit court clerk under
3 Section 16 of the Clerks of Courts Act, but the order shall
4 not affect any index issued by the circuit court clerk
5 before the entry of the order. Nothing in this Section
6 shall limit the Department of State Police or other
7 criminal justice agencies or prosecutors from listing
8 under an offender's name the false names he or she has
9 used.

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

26 (6) If a conviction has been set aside on direct review

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

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

22 (8) If the petitioner has been granted a certificate of
23 innocence under Section 2-702 of the Code of Civil
24 Procedure, the court that grants the certificate of
25 innocence shall also enter an order expunging the
26 conviction for which the petitioner has been determined to

1 be innocent as provided in subsection (h) of Section 2-702
2 of the Code of Civil Procedure.

3 (c) Sealing.

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

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

12 (A) All arrests resulting in release without
13 charging;

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

18 (C) Arrests or charges not initiated by arrest
19 resulting in orders of supervision, including orders
20 of supervision for municipal ordinance violations,
21 successfully completed by the petitioner, unless
22 excluded by subsection (a) (3);

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

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

8 (F) Arrests or charges not initiated by arrest
9 resulting in felony convictions unless otherwise
10 excluded by subsection (a) paragraph (3) of this
11 Section; ~~-~~

12 (G) Arrests or charges not initiated by arrest
13 resulting in orders of misdemeanor diversion under
14 Section 5-6-3.7 of the Unified Code of Corrections,
15 successfully completed by the petitioner;

16 (H) Arrests or charges not initiated by arrest
17 resulting in probation, pursuant to subparagraph
18 (viii) of paragraph (1) of subsection (b),
19 successfully completed by the petitioner, or
20 imprisonment in an Illinois County jail or in the
21 Illinois Department of Corrections; and

22 (I) Arrests or charges not initiated by arrest
23 resulting in incarceration in an Illinois county jail,
24 pursuant to subparagraphs (vi) or (vii) of paragraph
25 (1) of subsection (b), unless excluded by paragraph (3)
26 of subsection (a).

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

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

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

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

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

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

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

26 (5) Notice of eligibility for sealing. Upon entry of a

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

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

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

20 (1.5) County fee waiver pilot program. From August 9,
21 2019 (the effective date of Public Act 101-306) through
22 December 31, 2020, in a county of 3,000,000 or more
23 inhabitants, no fee shall be required to be paid by a
24 petitioner if the records sought to be expunged or sealed
25 were arrests resulting in release without charging or
26 arrests or charges not initiated by arrest resulting in

1 acquittal, dismissal, or conviction when the conviction
2 was reversed or vacated, unless excluded by subsection
3 (a)(3)(B). The provisions of this paragraph (1.5), other
4 than this sentence, are inoperative on and after January 1,
5 2021.

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

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

1 is petitioning to:

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

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

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

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

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

17 (5) Objections.

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

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

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

3 (6) Entry of order.

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

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

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

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

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

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

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

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

26 (D) the period of time between the petitioner's

1 arrest on the charge resulting in the conviction and
2 the filing of the petition under this Section; and

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

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

14 (9) Implementation of order.

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

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

24 (ii) the records of the circuit court clerk
25 shall be impounded until further order of the court
26 upon good cause shown and the name of the

1 petitioner obliterated on the official index
2 required to be kept by the circuit court clerk
3 under Section 16 of the Clerks of Courts Act, but
4 the order shall not affect any index issued by the
5 circuit court clerk before the entry of the order;
6 and

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

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

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

21 (ii) the records of the circuit court clerk
22 shall be impounded until further order of the court
23 upon good cause shown and the name of the
24 petitioner obliterated on the official index
25 required to be kept by the circuit court clerk
26 under Section 16 of the Clerks of Courts Act, but

1 the order shall not affect any index issued by the
2 circuit court clerk before the entry of the order;

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

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

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

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

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

1 and any other agency as ordered by the court,
2 within 60 days of the date of service of the order,
3 unless a motion to vacate, modify, or reconsider
4 the order is filed under paragraph (12) of
5 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 (iii) the records shall be impounded by the
15 Department within 60 days of the date of service of
16 the order as ordered by the court, unless a motion
17 to vacate, modify, or reconsider the order is filed
18 under paragraph (12) of subsection (d) of this
19 Section;

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

1 offense; and

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

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

17 (D) The Department shall send written notice to the
18 petitioner of its compliance with each order to expunge
19 or seal records within 60 days of the date of service
20 of that order or, if a motion to vacate, modify, or
21 reconsider is filed, within 60 days of service of the
22 order resolving the motion, if that order requires the
23 Department to expunge or seal records. In the event of
24 an appeal from the circuit court order, the Department
25 shall send written notice to the petitioner of its
26 compliance with an Appellate Court or Supreme Court

1 judgment to expunge or seal records within 60 days of
2 the issuance of the court's mandate. The notice is not
3 required while any motion to vacate, modify, or
4 reconsider, or any appeal or petition for
5 discretionary appellate review, is pending.

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

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

26 (10) Fees. The Department may charge the petitioner a

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

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

24 (12) Motion to Vacate, Modify, or Reconsider. Under
25 Section 2-1203 of the Code of Civil Procedure, the
26 petitioner or any party entitled to notice may file a

1 motion to vacate, modify, or reconsider the order granting
2 or denying the petition to expunge or seal within 60 days
3 of service of the order. If filed more than 60 days after
4 service of the order, a petition to vacate, modify, or
5 reconsider shall comply with subsection (c) of Section
6 2-1401 of the Code of Civil Procedure. Upon filing of a
7 motion to vacate, modify, or reconsider, notice of the
8 motion shall be served upon the petitioner and all parties
9 entitled to notice of the petition.

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

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

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

10 (16) The changes to this subsection (d) made by Public
11 Act 98-163 apply to all petitions pending on August 5, 2013
12 (the effective date of Public Act 98-163) and to all orders
13 ruling on a petition to expunge or seal on or after August
14 5, 2013 (the effective date of Public Act 98-163).

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

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

16 (e-5) Whenever a person who has been convicted of an
17 offense is granted a certificate of eligibility for sealing by
18 the Prisoner Review Board which specifically authorizes
19 sealing, he or she may, upon verified petition to the Chief
20 Judge of the circuit where the person had been convicted, any
21 judge of the circuit designated by the Chief Judge, or in
22 counties of less than 3,000,000 inhabitants, the presiding
23 trial judge at the petitioner's trial, have a court order
24 entered sealing the record of arrest from the official records
25 of the arresting authority and order that the records of the
26 circuit court clerk and the Department be sealed until further

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

20 (e-6) Whenever a person who has been convicted of an
21 offense is granted a certificate of eligibility for expungement
22 by the Prisoner Review Board which specifically authorizes
23 expungement, he or she may, upon verified petition to the Chief
24 Judge of the circuit where the person had been convicted, any
25 judge of the circuit designated by the Chief Judge, or in
26 counties of less than 3,000,000 inhabitants, the presiding

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

24 (f) Subject to available funding, the Illinois Department
25 of Corrections shall conduct a study of the impact of sealing,
26 especially on employment and recidivism rates, utilizing a

1 random sample of those who apply for the sealing of their
2 criminal records under Public Act 93-211. At the request of the
3 Illinois Department of Corrections, records of the Illinois
4 Department of Employment Security shall be utilized as
5 appropriate to assist in the study. The study shall not
6 disclose any data in a manner that would allow the
7 identification of any particular individual or employing unit.
8 The study shall be made available to the General Assembly no
9 later than September 1, 2010.

10 (g) Immediate Sealing.

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

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

24 (3) When Records are Eligible to be Immediately Sealed.
25 Eligible records under paragraph (2) of this subsection (g)
26 may be sealed immediately after entry of the final

1 disposition of a case, notwithstanding the disposition of
2 other charges in the same case.

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

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

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

24 (B) Contents of Petition. The immediate sealing
25 petition shall be verified and shall contain the
26 petitioner's name, date of birth, current address, and

1 for each eligible record, the case number, the date of
2 arrest if applicable, the identity of the arresting
3 authority if applicable, and other information as the
4 court may require.

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

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

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

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

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

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

26 (I) Fees. The fee imposed by the circuit court

1 clerk and the Department of State Police shall comply
2 with paragraph (1) of subsection (d) of this Section.

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

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

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

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

7 (h) Sealing; trafficking victims.

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

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

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

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

16 (1) Expungement of Arrest Records of Minor Cannabis
17 Offenses.

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

25 (i) One year or more has elapsed since the date
26 of the arrest or law enforcement interaction

1 documented in the records; and

2 (ii) No criminal charges were filed relating
3 to the arrest or law enforcement interaction or
4 criminal charges were filed and subsequently
5 dismissed or vacated or the arrestee was
6 acquitted.

7 (B) If the law enforcement agency is unable to
8 verify satisfaction of condition (ii) in paragraph
9 (A), records that satisfy condition (i) in paragraph
10 (A) shall be automatically expunged.

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

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

17 (ii) Records created prior to January 1, 2013,
18 but on or after January 1, 2000, shall be
19 automatically expunged prior to January 1, 2023;

20 (iii) Records created prior to January 1, 2000
21 shall be automatically expunged prior to January
22 1, 2025.

23 In response to an inquiry for expunged records, the
24 law enforcement agency receiving such inquiry shall
25 reply as it does in response to inquiries when no
26 records ever existed; however, it shall provide a

1 certificate of disposition or confirmation that the
2 record was expunged to the individual whose record was
3 expunged if such a record exists.

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

10 (2) Pardons Authorizing Expungement of Minor Cannabis
11 Offenses.

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

17 (i) one or more convictions for a Minor
18 Cannabis Offense;

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

22 (iii) the conviction identified in paragraph
23 (2)(A)(i) is not associated with a conviction for a
24 violent crime as defined in subsection (c) of
25 Section 3 of the Rights of Crime Victims and
26 Witnesses Act.

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

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

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

23 (iii) The Prisoner Review Board shall make a
24 confidential and privileged recommendation to the
25 Governor as to whether to grant a pardon
26 authorizing expungement for each of the records

1 identified by the Department of State Police as
2 described in paragraph (2) (A).

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

1 court clerk before the entry of the order. Upon entry
2 of the order of expungement, the circuit court clerk
3 shall promptly provide a copy of the order and a
4 certificate of disposition to the individual who was
5 pardoned to the individual's last known address or by
6 electronic means (if available) or otherwise make it
7 available to the individual upon request.

8 (D) Nothing in this Section is intended to diminish
9 or abrogate any rights or remedies otherwise available
10 to the individual.

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

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

18 (4) Any State's Attorney may file a motion to vacate
19 and expunge a conviction for a misdemeanor or Class 4
20 felony violation of Section 4 or Section 5 of the Cannabis
21 Control Act. Motions to vacate and expunge under this
22 subsection (i) may be filed with the circuit court, Chief
23 Judge of a judicial circuit or any judge of the circuit
24 designated by the Chief Judge, and may include more than
25 one individual. Motions filed by a State's Attorney
26 concerning more than one individual may be prepared,

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

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

23 (6) If a person is arrested for a Minor Cannabis
24 Offense as defined in this Section before June 25, 2019
25 (the effective date of Public Act 101-27) and the person's
26 case is still pending but a sentence has not been imposed,

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

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

23 (8) The Department of State Police shall allow a person
24 to use the access and review process, established in the
25 Department of State Police, for verifying that his or her
26 records relating to Minor Cannabis Offenses of the Cannabis

1 Control Act eligible under this Section have been expunged.

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

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

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

13 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;
14 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.
15 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,
16 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
17 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
18 12-4-19.)

19 Section 10. The Illinois Controlled Substances Act is
20 amended by changing Sections 401, 402, and 408 as follows:

21 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

22 Sec. 401. Manufacture or delivery, or possession with
23 intent to manufacture or deliver, a controlled substance, a
24 counterfeit substance, or controlled substance analog. Except

1 as authorized by this Act, it is unlawful for any person
2 knowingly to manufacture or deliver, or possess with intent to
3 manufacture or deliver, a controlled substance other than
4 methamphetamine and other than bath salts as defined in the
5 Bath Salts Prohibition Act sold or offered for sale in a retail
6 mercantile establishment as defined in Section 16-0.1 of the
7 Criminal Code of 2012, a counterfeit substance, or a controlled
8 substance analog. A violation of this Act with respect to each
9 of the controlled substances listed herein constitutes a single
10 and separate violation of this Act. For purposes of this
11 Section, "controlled substance analog" or "analog" means a
12 substance, other than a controlled substance, which is not
13 approved by the United States Food and Drug Administration or,
14 if approved, is not dispensed or possessed in accordance with
15 State or federal law, and that has a chemical structure
16 substantially similar to that of a controlled substance in
17 Schedule I or II, or that was specifically designed to produce
18 an effect substantially similar to that of a controlled
19 substance in Schedule I or II. Examples of chemical classes in
20 which controlled substance analogs are found include, but are
21 not limited to, the following: phenethylamines, N-substituted
22 piperidines, morphinans, ecgonines, quinazolinones,
23 substituted indoles, and arylcycloalkylamines. For purposes of
24 this Act, a controlled substance analog shall be treated in the
25 same manner as the controlled substance to which it is
26 substantially similar.

1 (a) Any person who violates this Section with respect to
2 the following amounts of controlled or counterfeit substances
3 or controlled substance analogs, notwithstanding any of the
4 provisions of subsections (c), (d), (e), (f), (g) or (h) to the
5 contrary, is guilty of a Class X felony and shall be sentenced
6 to a term of imprisonment as provided in this subsection (a)
7 and fined as provided in subsection (b):

8 (1) (A) not less than 6 years and not more than 30 years
9 with respect to 15 grams or more but less than 100 grams of
10 a substance containing heroin, or an analog thereof;

11 (B) not less than 9 years and not more than 40 years
12 with respect to 100 grams or more but less than 400 grams
13 of a substance containing heroin, or an analog thereof;

14 (C) not less than 12 years and not more than 50 years
15 with respect to 400 grams or more but less than 900 grams
16 of a substance containing heroin, or an analog thereof;

17 (D) not less than 15 years and not more than 60 years
18 with respect to 900 grams or more of any substance
19 containing heroin, or an analog thereof;

20 (1.5) (A) not less than 6 years and not more than 30
21 years with respect to 15 grams or more but less than 100
22 grams of a substance containing fentanyl, or an analog
23 thereof;

24 (B) not less than 9 years and not more than 40 years
25 with respect to 100 grams or more but less than 400 grams
26 of a substance containing fentanyl, or an analog thereof;

1 (C) not less than 12 years and not more than 50 years
2 with respect to 400 grams or more but less than 900 grams
3 of a substance containing fentanyl, or an analog thereof;

4 (D) not less than 15 years and not more than 60 years
5 with respect to 900 grams or more of a substance containing
6 fentanyl, or an analog thereof;

7 (2) (A) not less than 6 years and not more than 30 years
8 with respect to 15 grams or more but less than 100 grams of
9 a substance containing cocaine, or an analog thereof;

10 (B) not less than 9 years and not more than 40 years
11 with respect to 100 grams or more but less than 400 grams
12 of a substance containing cocaine, or an analog thereof;

13 (C) not less than 12 years and not more than 50 years
14 with respect to 400 grams or more but less than 900 grams
15 of a substance containing cocaine, or an analog thereof;

16 (D) not less than 15 years and not more than 60 years
17 with respect to 900 grams or more of any substance
18 containing cocaine, or an analog thereof;

19 (3) (A) not less than 6 years and not more than 30 years
20 with respect to 15 grams or more but less than 100 grams of
21 a substance containing morphine, or an analog thereof;

22 (B) not less than 9 years and not more than 40 years
23 with respect to 100 grams or more but less than 400 grams
24 of a substance containing morphine, or an analog thereof;

25 (C) not less than 12 years and not more than 50 years
26 with respect to 400 grams or more but less than 900 grams

1 of a substance containing morphine, or an analog thereof;

2 (D) not less than 15 years and not more than 60 years
3 with respect to 900 grams or more of a substance containing
4 morphine, or an analog thereof;

5 (4) 200 grams or more of any substance containing
6 peyote, or an analog thereof;

7 (5) 200 grams or more of any substance containing a
8 derivative of barbituric acid or any of the salts of a
9 derivative of barbituric acid, or an analog thereof;

10 (6) 200 grams or more of any substance containing
11 amphetamine or any salt of an optical isomer of
12 amphetamine, or an analog thereof;

13 (6.5) (blank);

14 (6.6) (blank);

15 (7) (A) not less than 6 years and not more than 30 years
16 with respect to: (i) 15 grams or more but less than 100
17 grams of a substance containing lysergic acid diethylamide
18 (LSD), or an analog thereof, or (ii) 15 or more objects or
19 15 or more segregated parts of an object or objects but
20 less than 200 objects or 200 segregated parts of an object
21 or objects containing in them or having upon them any
22 amounts of any substance containing lysergic acid
23 diethylamide (LSD), or an analog thereof;

24 (B) not less than 9 years and not more than 40 years
25 with respect to: (i) 100 grams or more but less than 400
26 grams of a substance containing lysergic acid diethylamide

1 (LSD), or an analog thereof, or (ii) 200 or more objects or
2 200 or more segregated parts of an object or objects but
3 less than 600 objects or less than 600 segregated parts of
4 an object or objects containing in them or having upon them
5 any amount of any substance containing lysergic acid
6 diethylamide (LSD), or an analog thereof;

7 (C) not less than 12 years and not more than 50 years
8 with respect to: (i) 400 grams or more but less than 900
9 grams of a substance containing lysergic acid diethylamide
10 (LSD), or an analog thereof, or (ii) 600 or more objects or
11 600 or more segregated parts of an object or objects but
12 less than 1500 objects or 1500 segregated parts of an
13 object or objects containing in them or having upon them
14 any amount of any substance containing lysergic acid
15 diethylamide (LSD), or an analog thereof;

16 (D) not less than 15 years and not more than 60 years
17 with respect to: (i) 900 grams or more of any substance
18 containing lysergic acid diethylamide (LSD), or an analog
19 thereof, or (ii) 1500 or more objects or 1500 or more
20 segregated parts of an object or objects containing in them
21 or having upon them any amount of a substance containing
22 lysergic acid diethylamide (LSD), or an analog thereof;

23 (7.5) (A) not less than 6 years and not more than 30 years
24 with respect to: (i) 15 grams or more but less than 100
25 grams of a substance listed in paragraph (1), (2), (2.1),
26 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26)

1 of subsection (d) of Section 204, or an analog or
2 derivative thereof, or (ii) 15 or more pills, tablets,
3 caplets, capsules, or objects but less than 200 pills,
4 tablets, caplets, capsules, or objects containing in them
5 or having upon them any amounts of any substance listed in
6 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
7 (20.1), (21), (25), or (26) of subsection (d) of Section
8 204, or an analog or derivative thereof;

9 (B) not less than 9 years and not more than 40 years
10 with respect to: (i) 100 grams or more but less than 400
11 grams of a substance listed in paragraph (1), (2), (2.1),
12 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26)
13 of subsection (d) of Section 204, or an analog or
14 derivative thereof, or (ii) 200 or more pills, tablets,
15 caplets, capsules, or objects but less than 600 pills,
16 tablets, caplets, capsules, or objects containing in them
17 or having upon them any amount of any substance listed in
18 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
19 (20.1), (21), (25), or (26) of subsection (d) of Section
20 204, or an analog or derivative thereof;

21 (C) not less than 12 years and not more than 50 years
22 with respect to: (i) 400 grams or more but less than 900
23 grams of a substance listed in paragraph (1), (2), (2.1),
24 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or (26)
25 of subsection (d) of Section 204, or an analog or
26 derivative thereof, or (ii) 600 or more pills, tablets,

1 caplets, capsules, or objects but less than 1,500 pills,
2 tablets, caplets, capsules, or objects containing in them
3 or having upon them any amount of any substance listed in
4 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
5 (20.1), (21), (25), or (26) of subsection (d) of Section
6 204, or an analog or derivative thereof;

7 (D) not less than 15 years and not more than 60 years
8 with respect to: (i) 900 grams or more of any substance
9 listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1),
10 (19), (20), (20.1), (21), (25), or (26) of subsection (d)
11 of Section 204, or an analog or derivative thereof, or (ii)
12 1,500 or more pills, tablets, caplets, capsules, or objects
13 containing in them or having upon them any amount of a
14 substance listed in paragraph (1), (2), (2.1), (2.2), (3),
15 (14.1), (19), (20), (20.1), (21), (25), or (26) of
16 subsection (d) of Section 204, or an analog or derivative
17 thereof;

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

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

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

1 (10.5) 30 grams or more of any substance containing
2 ketamine or any of the salts, isomers and salts of isomers
3 of ketamine, or an analog thereof;

4 (10.6) 100 grams or more of any substance containing
5 hydrocodone, or any of the salts, isomers and salts of
6 isomers of hydrocodone, or an analog thereof;

7 (10.7) (blank);

8 (10.8) 100 grams or more of any substance containing
9 dihydrocodeine, or any of the salts, isomers and salts of
10 isomers of dihydrocodeine, or an analog thereof;

11 (10.9) 100 grams or more of any substance containing
12 oxycodone, or any of the salts, isomers and salts of
13 isomers of oxycodone, or an analog thereof;

14 (11) 200 grams or more of any substance containing any
15 other controlled substance classified in Schedules I or II,
16 or an analog thereof, which is not otherwise included in
17 this subsection.

18 (b) Any person sentenced with respect to violations of
19 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)
20 involving 100 grams or more of the controlled substance named
21 therein, may in addition to the penalties provided therein, be
22 fined an amount not more than \$500,000 or the full street value
23 of the controlled or counterfeit substance or controlled
24 substance analog, whichever is greater. The term "street value"
25 shall have the meaning ascribed in Section 110-5 of the Code of
26 Criminal Procedure of 1963. Any person sentenced with respect

1 to any other provision of subsection (a), may in addition to
2 the penalties provided therein, be fined an amount not to
3 exceed \$500,000.

4 (b-1) Excluding violations of this Act when the controlled
5 substance is fentanyl, any person sentenced to a term of
6 imprisonment with respect to violations of Section 401, 401.1,
7 405, 405.1, 405.2, or 407, when the substance containing the
8 controlled substance contains any amount of fentanyl, 3 years
9 shall be added to the term of imprisonment imposed by the
10 court, and the maximum sentence for the offense shall be
11 increased by 3 years.

12 (c) Any person who violates this Section with regard to the
13 following amounts of controlled or counterfeit substances or
14 controlled substance analogs, notwithstanding any of the
15 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
16 to the contrary, is guilty of a Class 1 felony. The fine for
17 violation of this subsection (c) shall not be more than
18 \$250,000:

19 (1) 3 grams ~~1 gram~~ or more but less than 15 grams of
20 any substance containing heroin, or an analog thereof;

21 (1.5) 3 grams ~~1 gram~~ or more but less than 15 grams of
22 any substance containing fentanyl, or an analog thereof;

23 (2) 5 grams ~~1 gram~~ or more but less than 15 grams of
24 any substance containing cocaine, or an analog thereof;

25 (3) 4 ~~10~~ grams or more but less than 15 grams of any
26 substance containing morphine, or an analog thereof;

1 (4) 50 grams or more but less than 200 grams of any
2 substance containing peyote, or an analog thereof;

3 (5) 50 grams or more but less than 200 grams of any
4 substance containing a derivative of barbituric acid or any
5 of the salts of a derivative of barbituric acid, or an
6 analog thereof;

7 (6) 50 grams or more but less than 200 grams of any
8 substance containing amphetamine or any salt of an optical
9 isomer of amphetamine, or an analog thereof;

10 (6.5) (blank);

11 (7) (i) one gram ~~5 grams~~ or more but less than 15 grams
12 of any substance containing lysergic acid diethylamide
13 (LSD), or an analog thereof, or (ii) more than 40 ~~10~~
14 objects or more than 40 ~~10~~ segregated parts of an object or
15 objects but less than 100 ~~15~~ objects or less than 100 ~~15~~
16 segregated parts of an object containing in them or having
17 upon them any amount of any substance containing lysergic
18 acid diethylamide (LSD), or an analog thereof;

19 (7.5) (i) 2 ~~5~~ grams or more but less than 15 grams of
20 any substance listed in paragraph (1), (2), (2.1), (2.2),
21 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of
22 subsection (d) of Section 204, or an analog or derivative
23 thereof, or (ii) 5 or more ~~than 10~~ pills, tablets, caplets,
24 capsules, or objects ~~but less than 15 pills, tablets,~~
25 ~~caplets, capsules, or objects~~ containing in them or having
26 upon them any amount of any substance listed in paragraph

1 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1),
2 (21), (25), or (26) of subsection (d) of Section 204, or an
3 analog or derivative thereof;

4 (8) 10 grams or more but less than 30 grams of any
5 substance containing pentazocine or any of the salts,
6 isomers and salts of isomers of pentazocine, or an analog
7 thereof;

8 (9) 10 grams or more but less than 30 grams of any
9 substance containing methaqualone or any of the salts,
10 isomers and salts of isomers of methaqualone, or an analog
11 thereof;

12 (10) 10 grams or more but less than 30 grams of any
13 substance containing phencyclidine or any of the salts,
14 isomers and salts of isomers of phencyclidine (PCP), or an
15 analog thereof;

16 (10.5) 10 grams or more but less than 30 grams of any
17 substance containing ketamine or any of the salts, isomers
18 and salts of isomers of ketamine, or an analog thereof;

19 (10.6) 50 grams or more but less than 100 grams of any
20 substance containing hydrocodone, or any of the salts,
21 isomers and salts of isomers of hydrocodone, or an analog
22 thereof;

23 (10.7) (blank);

24 (10.8) 50 grams or more but less than 100 grams of any
25 substance containing dihydrocodeine, or any of the salts,
26 isomers and salts of isomers of dihydrocodeine, or an

1 analog thereof;

2 (10.9) 50 grams or more but less than 100 grams of any
3 substance containing oxycodone, or any of the salts,
4 isomers and salts of isomers of oxycodone, or an analog
5 thereof;

6 (11) 50 grams or more but less than 200 grams of any
7 substance containing a substance classified in Schedules I
8 or II, or an analog thereof, which is not otherwise
9 included in this subsection.

10 (c-5) (Blank).

11 (d) Any person who violates this Section with regard to any
12 other amount of a controlled or counterfeit substance
13 containing dihydrocodeine or classified in Schedules I or II,
14 or an analog thereof, which is (i) a narcotic drug, (ii)
15 lysergic acid diethylamide (LSD) or an analog thereof, (iii)
16 any substance containing amphetamine or fentanyl or any salt or
17 optical isomer of amphetamine or fentanyl, or an analog
18 thereof, or (iv) any substance containing N-Benzylpiperazine
19 (BZP) or any salt or optical isomer of N-Benzylpiperazine
20 (BZP), or an analog thereof, is guilty of a Class 2 felony. The
21 fine for violation of this subsection (d) shall not be more
22 than \$200,000.

23 (d-5) (Blank).

24 (e) (Blank). ~~Any person who violates this Section with~~
25 ~~regard to any other amount of a controlled substance other than~~
26 ~~methamphetamine or counterfeit substance classified in~~

1 ~~Schedule I or II, or an analog thereof, which substance is not~~
2 ~~included under subsection (d) of this Section, is guilty of a~~
3 ~~Class 3 felony. The fine for violation of this subsection (e)~~
4 ~~shall not be more than \$150,000.~~

5 (f) (Blank). ~~Any person who violates this Section with~~
6 ~~regard to any other amount of a controlled or counterfeit~~
7 ~~substance classified in Schedule III is guilty of a Class 3~~
8 ~~felony. The fine for violation of this subsection (f) shall not~~
9 ~~be more than \$125,000.~~

10 (g) (Blank). ~~Any person who violates this Section with~~
11 ~~regard to any other amount of a controlled or counterfeit~~
12 ~~substance classified in Schedule IV is guilty of a Class 3~~
13 ~~felony. The fine for violation of this subsection (g) shall not~~
14 ~~be more than \$100,000.~~

15 (h) (Blank). ~~Any person who violates this Section with~~
16 ~~regard to any other amount of a controlled or counterfeit~~
17 ~~substance classified in Schedule V is guilty of a Class 3~~
18 ~~felony. The fine for violation of this subsection (h) shall not~~
19 ~~be more than \$75,000.~~

20 (i) (Blank). ~~This Section does not apply to the~~
21 ~~manufacture, possession or distribution of a substance in~~
22 ~~conformance with the provisions of an approved new drug~~
23 ~~application or an exemption for investigational use within the~~
24 ~~meaning of Section 505 of the Federal Food, Drug and Cosmetic~~
25 ~~Act.~~

26 (j) (Blank).

1 (k) Any person who knowingly manufactures or delivers any
2 other amount of a controlled or counterfeit substance
3 containing dihydrocodeine or classified in Schedules I or II,
4 or an analog thereof, which is (i) a narcotic drug, (ii)
5 lysergic acid diethylamide (LSD) or an analog thereof, (iii)
6 any substance containing amphetamine or fentanyl or any salt or
7 optical isomer of amphetamine or fentanyl, or an analog
8 thereof, (iv) any substance containing N-Benzylpiperazine
9 (BZP) or any salt or optical isomer of N-Benzylpiperazine
10 (BZP), or an analog thereof, or (v) any other substance
11 classified in Schedules I through V; is guilty of a Class 4
12 felony. The fine for violation of this subsection (d) shall not
13 be more than \$25,000.

14 (l) This Section does not apply to the manufacture,
15 possession or distribution of a substance in conformance with
16 the provisions of an approved new drug application or an
17 exemption for investigational use within the meaning of Section
18 505 of the Federal Food, Drug and Cosmetic Act.

19 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17;
20 100-368, eff. 1-1-18.)

21 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

22 Sec. 402. Except as otherwise authorized by this Act, it is
23 unlawful for any person knowingly to possess a controlled or
24 counterfeit substance or controlled substance analog. A
25 violation of this Act with respect to each of the controlled

1 substances listed herein constitutes a single and separate
2 violation of this Act. For purposes of this Section,
3 "controlled substance analog" or "analog" means a substance,
4 other than a controlled substance, which is not approved by the
5 United States Food and Drug Administration or, if approved, is
6 not dispensed or possessed in accordance with State or federal
7 law, and that has a chemical structure substantially similar to
8 that of a controlled substance in Schedule I or II, or that was
9 specifically designed to produce an effect substantially
10 similar to that of a controlled substance in Schedule I or II.
11 Examples of chemical classes in which controlled substance
12 analogs are found include, but are not limited to, the
13 following: phenethylamines, N-substituted piperidines,
14 morphinans, ecgonines, quinazolinones, substituted indoles,
15 and arylcycloalkylamines. For purposes of this Act, a
16 controlled substance analog shall be treated in the same manner
17 as the controlled substance to which it is substantially
18 similar.

19 (a) Any person who violates this Section with respect to
20 the following controlled or counterfeit substances and
21 amounts, notwithstanding any of the provisions of subsections
22 (c) and (d) to the contrary, is guilty of a Class 1 felony and
23 shall, if sentenced to a term of imprisonment, be sentenced as
24 provided in this subsection (a) and fined as provided in
25 subsection (b):

26 (1) (A) not less than 4 years and not more than 15

1 years with respect to 15 grams or more but less than
2 100 grams of a substance containing heroin;

3 (B) not less than 6 years and not more than 30
4 years with respect to 100 grams or more but less than
5 400 grams of a substance containing heroin;

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

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

12 (2) (A) not less than 4 years and not more than 15
13 years with respect to 15 grams or more but less than
14 100 grams of any substance containing cocaine;

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

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

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

24 (3) (A) not less than 4 years and not more than 15
25 years with respect to 15 grams or more but less than
26 100 grams of any substance containing morphine;

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

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

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

10 (4) 200 grams or more of any substance containing
11 peyote;

12 (5) 200 grams or more of any substance containing a
13 derivative of barbituric acid or any of the salts of a
14 derivative of barbituric acid;

15 (6) 200 grams or more of any substance containing
16 amphetamine or any salt of an optical isomer of
17 amphetamine;

18 (6.5) (blank);

19 (7) (A) not less than 4 years and not more than 15
20 years with respect to: (i) 15 grams or more but less
21 than 100 grams of any substance containing lysergic
22 acid diethylamide (LSD), or an analog thereof, or (ii)
23 100 ~~15~~ or more objects or 100 ~~15~~ or more segregated
24 parts of an object or objects but less than 200 objects
25 or 200 segregated parts of an object or objects
26 containing in them or having upon them any amount of

1 any substance containing lysergic acid diethylamide
2 (LSD), or an analog thereof;

3 (B) not less than 6 years and not more than 30
4 years with respect to: (i) 100 grams or more but less
5 than 400 grams of any substance containing lysergic
6 acid diethylamide (LSD), or an analog thereof, or (ii)
7 200 or more objects or 200 or more segregated parts of
8 an object or objects but less than 600 objects or less
9 than 600 segregated parts of an object or objects
10 containing in them or having upon them any amount of
11 any substance containing lysergic acid diethylamide
12 (LSD), or an analog thereof;

13 (C) not less than 8 years and not more than 40
14 years with respect to: (i) 400 grams or more but less
15 than 900 grams of any substance containing lysergic
16 acid diethylamide (LSD), or an analog thereof, or (ii)
17 600 or more objects or 600 or more segregated parts of
18 an object or objects but less than 1500 objects or 1500
19 segregated parts of an object or objects containing in
20 them or having upon them any amount of any substance
21 containing lysergic acid diethylamide (LSD), or an
22 analog thereof;

23 (D) not less than 10 years and not more than 50
24 years with respect to: (i) 900 grams or more of any
25 substance containing lysergic acid diethylamide (LSD),
26 or an analog thereof, or (ii) 1500 or more objects or

1 1500 or more segregated parts of an object or objects
2 containing in them or having upon them any amount of a
3 substance containing lysergic acid diethylamide (LSD),
4 or an analog thereof;

5 (7.5) (A) not less than 4 years and not more than 15
6 years with respect to: (i) 15 grams or more but less
7 than 100 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) 15 or more pills, tablets, caplets, capsules, or
12 objects but less than 200 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 (B) not less than 6 years and not more than 30
19 years with respect to: (i) 100 grams or more but less
20 than 400 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) 200 or more pills, tablets, caplets, capsules, or
25 objects but less than 600 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 (C) not less than 8 years and not more than 40
6 years with respect to: (i) 400 grams or more but less
7 than 900 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) 600 or more pills, tablets, caplets, capsules, or
12 objects but less than 1,500 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 (D) not less than 10 years and not more than 50
19 years with respect to: (i) 900 grams or more of any
20 substance listed in paragraph (1), (2), (2.1), (2.2),
21 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of
22 subsection (d) of Section 204, or an analog or
23 derivative thereof, or (ii) 1,500 or more pills,
24 tablets, caplets, capsules, or objects containing in
25 them or having upon them any amount of a substance
26 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
3 derivative thereof;

4 (8) 30 grams or more of any substance containing
5 pentazocine or any of the salts, isomers and salts of
6 isomers of pentazocine, or an analog thereof;

7 (9) 30 grams or more of any substance containing
8 methaqualone or any of the salts, isomers and salts of
9 isomers of methaqualone;

10 (10) 30 grams or more of any substance containing
11 phencyclidine or any of the salts, isomers and salts of
12 isomers of phencyclidine (PCP);

13 (10.5) 30 grams or more of any substance containing
14 ketamine or any of the salts, isomers and salts of isomers
15 of ketamine;

16 (11) 200 grams or more of any substance containing any
17 substance classified as a narcotic drug in Schedules I or
18 II, or an analog thereof, which is not otherwise included
19 in this subsection.

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

23 (1) 3 grams or more but less than 15 grams of a
24 substance containing heroin;

25 (2) 3 grams or more but less than 200 grams of a
26 substance containing fentanyl;

1 (3) 5 grams or more but less than 15 grams of a
2 substance containing cocaine;

3 (4) 4 grams or more but less than 15 grams of a
4 substance containing morphine;

5 (5) (i) 1 gram or more but less than 15 grams of any
6 substance containing lysergic acid diethylamide (LSD); or
7 (ii) more than 40 objects or segregated parts of an object
8 or objects but less than 100 objects or segregated parts of
9 an object or objects containing in them or having upon them
10 any amount of a substance containing lysergic acid
11 diethylamide (LSD), or an analog thereof;

12 (6) (i) 2 grams or more but less than 15 grams of any
13 substance 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 derivative
16 thereof; or (ii) 5 or more pills, tablets, caplets,
17 capsules, or objects containing in them or having upon them
18 any amount of any substance listed in paragraph (1), (2),
19 (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21), (25),
20 or (26) of subsection (d) of Section 204, or an analog or
21 derivative thereof;

22 (7) 4 grams or more but less than 30 grams of any
23 substance containing pentazocine or any of the salts,
24 isomers and salts of isomers of pentazocine, or an analog
25 thereof;

26 (8) 3 grams or more but less than 15 grams of any

1 substance containing phencyclidine or any of the salts,
2 isomers and salts of isomers of phencyclidine (PCP), or an
3 analog thereof;

4 (9) 3 grams or more but less than 30 grams of any
5 substance containing ketamine or any of the salts, isomers
6 and salts of isomers of ketamine;

7 (10) (i) 4 grams or more but less than 200 grams of a
8 substance containing hydrocodone, dihydrocodeine,
9 oxycodone, or any of the salts, isomers, and salts of
10 isomers of hydrocodone, dihydrocodeine, or oxycodone, or
11 an analog thereof; or (ii) more than 40 pills, tablets,
12 caplets, capsules, or objects but less than 100 pills,
13 tablets, capsules, or objects containing hydrocodone,
14 dihydrocodeine, oxycodone, or any of the salts, isomers,
15 and salts of isomers of hydrocodone, dihydrocodeine, or
16 oxycodone, or an analog of hydrocodone, dihydrocodeine, or
17 oxycodone.

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

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

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

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

26 (3) less than 5 grams of a substance containing

1 cocaine;

2 (4) less than 4 grams of a substance containing
3 morphine;

4 (5)(i) less than 1 gram of any substance containing
5 lysergic acid diethylamide (LSD); or (ii) less than 40
6 objects or segregated parts of an object or objects
7 containing in them or having upon them any amount of a
8 substance containing lysergic acid diethylamide (LSD), or
9 an analog thereof;

10 (6)(i) less than 2 grams of any substance listed in
11 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
12 (20.1), (21), (25), or (26) of subsection (d) of Section
13 204, or an analog or derivative thereof; or (ii) less than
14 5 pills, tablets, caplets, capsules, or objects containing
15 in them or having upon them any amount of any substance
16 listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1),
17 (19), (20), (20.1), (21), (25), or (26) of subsection (d)
18 of Section 204, or an analog or derivative thereof;

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

22 (8) less than 3 grams of any substance containing
23 phencyclidine or any of the salts, isomers and salts of
24 isomers of phencyclidine (PCP), or an analog thereof;

25 (9) less than 3 grams of any substance containing
26 ketamine or any of the salts, isomers and salts of isomers

1 of ketamine;

2 (10) (i) less than 4 grams of any substance containing
3 hydrocodone, dihydrocodeine, oxycodone, or any of the
4 salts, isomers, and salts of isomers of hydrocodone,
5 dihydrocodeine, or oxycodone, or an analog thereof; or (ii)
6 less than 40 pills, tablets, caplets, capsules, or objects
7 containing hydrocodone, dihydrocodeine, oxycodone, or any
8 of the salts, isomers, and salts of isomers of hydrocodone,
9 dihydrocodeine, or oxycodone, or an analog of hydrocodone,
10 dihydrocodeine, or oxycodone.

11 (b) Any person sentenced with respect to violations of
12 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)
13 involving 100 grams or more of the controlled substance named
14 therein, may in addition to the penalties provided therein, be
15 fined an amount not to exceed \$200,000 or the full street value
16 of the controlled or counterfeit substances, whichever is
17 greater. The term "street value" shall have the meaning
18 ascribed in Section 110-5 of the Code of Criminal Procedure of
19 1963. Any person sentenced with respect to any other provision
20 of subsection (a), may in addition to the penalties provided
21 therein, be fined an amount not to exceed \$200,000.

22 (c) Any person who violates this Section with regard to an
23 amount of a controlled substance other than methamphetamine or
24 counterfeit substance not set forth in subsection (a), (a-1),
25 (a-5), or (d) is guilty of a Class A misdemeanor. ~~Class 4~~
26 ~~felony. The fine for a violation punishable under this~~

1 ~~subsection (c) shall not be more than \$25,000.~~

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

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

8 (720 ILCS 570/408) (from Ch. 56 1/2, par. 1408)

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

10 (a) Any person convicted of a second or subsequent felony
11 offense under this Act may be sentenced to imprisonment for a
12 term up to twice the maximum term otherwise authorized, fined
13 an amount up to twice that otherwise authorized, or both.

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

17 (1) has been convicted, subsequent to the effective
18 date of this amendatory Act of the 101st General Assembly,
19 of a felony violation of this Act or the Methamphetamine
20 Control and Community Protection Act or under any
21 substantially similar law of the United States or of any
22 state relating to controlled substances; or

23 (2) has at any time been convicted of a Class 1 or
24 higher felony violation of this Act or the Methamphetamine
25 Control and Community Protection Act or under any

1 substantially similar law of the United States or of any
2 state relating to controlled substances. ~~offender has at~~
3 ~~any time been convicted under this Act or under any law of~~
4 ~~the United States or of any State relating to controlled~~
5 ~~substances.~~

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

7 Section 15. The Methamphetamine Control and Community
8 Protection Act is amended by changing Sections 55 and 60 as
9 follows:

10 (720 ILCS 646/55)

11 Sec. 55. Methamphetamine delivery.

12 (a) Delivery or possession with intent to deliver
13 methamphetamine or a substance containing methamphetamine.

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

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

19 (A) A person who delivers ~~or possesses with intent~~
20 ~~to deliver~~ less than 5 grams of methamphetamine or a
21 substance containing methamphetamine is guilty of a
22 Class 2 felony.

23 (A-5) A person who possesses with intent to deliver
24 more than 3 grams but less than 5 grams of

1 methamphetamine is guilty of a Class 2 felony.

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

6 (C) A person who delivers or possesses with intent
7 to deliver 15 or more grams but less than 100 grams of
8 methamphetamine or a substance containing
9 methamphetamine is guilty of a Class X felony, subject
10 to a term of imprisonment of not less than 6 years and
11 not more than 30 years, and subject to a fine not to
12 exceed \$100,000 or the street value of the
13 methamphetamine, whichever is greater.

14 (D) A person who delivers or possesses with intent
15 to deliver 100 or more grams but less than 400 grams of
16 methamphetamine or a substance containing
17 methamphetamine is guilty of a Class X felony, subject
18 to a term of imprisonment of not less than 9 years and
19 not more than 40 years, and subject to a fine not to
20 exceed \$200,000 or the street value of the
21 methamphetamine, whichever is greater.

22 (E) A person who delivers or possesses with intent
23 to deliver 400 or more grams but less than 900 grams of
24 methamphetamine or a substance containing
25 methamphetamine is guilty of a Class X felony, subject
26 to a term of imprisonment of not less than 12 years and

1 not more than 50 years, and subject to a fine not to
2 exceed \$300,000 or the street value of the
3 methamphetamine, whichever is greater.

4 (F) A person who delivers or possesses with intent
5 to deliver 900 or more grams of methamphetamine or a
6 substance containing methamphetamine is guilty of a
7 Class X felony, subject to a term of imprisonment of
8 not less than 15 years and not more than 60 years, and
9 subject to a fine not to exceed \$400,000 or the street
10 value of the methamphetamine, whichever is greater.

11 (b) Aggravated delivery or possession with intent to
12 deliver methamphetamine or a substance containing
13 methamphetamine.

14 (1) It is unlawful to engage in the aggravated delivery
15 or possession with intent to deliver methamphetamine or a
16 substance containing methamphetamine. A person engages in
17 the aggravated delivery or possession with intent to
18 deliver methamphetamine or a substance containing
19 methamphetamine when the person violates paragraph (1) of
20 subsection (a) of this Section and:

21 (A) the person is at least 18 years of age and
22 knowingly delivers or possesses with intent to deliver
23 the methamphetamine or substance containing
24 methamphetamine to a person under 18 years of age;

25 (B) the person is at least 18 years of age and
26 knowingly uses, engages, employs, or causes another

1 person to use, engage, or employ a person under 18
2 years of age to deliver the methamphetamine or
3 substance containing methamphetamine;

4 (C) the person knowingly delivers or possesses
5 with intent to deliver the methamphetamine or
6 substance containing methamphetamine in any structure
7 or vehicle protected by one or more firearms, explosive
8 devices, booby traps, alarm systems, surveillance
9 systems, guard dogs, or dangerous animals;

10 (D) the person knowingly delivers or possesses
11 with intent to deliver the methamphetamine or
12 substance containing methamphetamine in any school, on
13 any real property comprising any school, or in any
14 conveyance owned, leased, or contracted by a school to
15 transport students to or from school or a
16 school-related activity and at the time of the
17 violation persons under the age of 18 are present, the
18 offense is committed during school hours, or the
19 offense is committed at times when persons under the
20 age of 18 are reasonably expected to be present in the
21 school, in the conveyance, or on the real property,
22 such as when after-school activities are occurring;

23 (E) the person delivers or causes another person to
24 deliver the methamphetamine or substance containing
25 methamphetamine to a woman that the person knows to be
26 pregnant; or

1 (F) (blank).

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

4 (A) A person who delivers or possesses with intent
5 to deliver less than 5 grams of methamphetamine or a
6 substance containing methamphetamine is guilty of a
7 Class 1 felony.

8 (B) A person who delivers or possesses with intent
9 to deliver 5 or more grams but less than 15 grams of
10 methamphetamine or a substance containing
11 methamphetamine is guilty of a Class X felony, subject
12 to a term of imprisonment of not less than 6 years and
13 not more than 30 years, and subject to a fine not to
14 exceed \$100,000 or the street value of the
15 methamphetamine, whichever is greater.

16 (C) A person who delivers or possesses with intent
17 to deliver 15 or more grams but less than 100 grams of
18 methamphetamine or a substance containing
19 methamphetamine is guilty of a Class X felony, subject
20 to a term of imprisonment of not less than 8 years and
21 not more than 40 years, and subject to a fine not to
22 exceed \$200,000 or the street value of the
23 methamphetamine, whichever is greater.

24 (D) A person who delivers or possesses with intent
25 to deliver 100 or more grams of methamphetamine or a
26 substance containing methamphetamine is guilty of a

1 Class X felony, subject to a term of imprisonment of
2 not less than 10 years and not more than 50 years, and
3 subject to a fine not to exceed \$300,000 or the street
4 value of the methamphetamine, whichever is greater.

5 (Source: P.A. 100-3, eff. 1-1-18.)

6 (720 ILCS 646/60)

7 Sec. 60. Methamphetamine possession.

8 (a) It is unlawful knowingly to possess methamphetamine or
9 a substance containing methamphetamine.

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

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

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

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

21 (4) A person who possesses 100 or more grams but less
22 than 400 grams of methamphetamine or a substance containing
23 methamphetamine is guilty of a Class X felony, subject to a
24 term of imprisonment of not less than 6 years and not more
25 than 30 years, and subject to a fine not to exceed

1 \$100,000.

2 (5) A person who possesses 400 or more grams but less
3 than 900 grams of methamphetamine or a substance containing
4 methamphetamine is guilty of a Class X felony, subject to a
5 term of imprisonment of not less than 8 years and not more
6 than 40 years, and subject to a fine not to exceed
7 \$200,000.

8 (6) A person who possesses 900 or more grams of
9 methamphetamine or a substance containing methamphetamine
10 is guilty of a Class X felony, subject to a term of
11 imprisonment of not less than 10 years and not more than 50
12 years, and subject to a fine not to exceed \$300,000.

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

14 Section 20. The Code of Criminal Procedure of 1963 is
15 amended by adding Section 116-2.2 as follows:

16 (725 ILCS 5/116-2.2 new)

17 Sec. 116-2.2. Retroactive resentencing.

18 (a) A person serving a sentence, including a sentence of
19 probation, for an offense for which the statutory penalty has
20 been subsequently reduced under this amendatory Act of the
21 101st General Assembly may petition the trial court that
22 entered the judgment of conviction to request resentencing in
23 accordance with the statutory penalty in effect at the time of
24 the filing of the petition.

1 (b) Within 30 days of the effective date of this amendatory
2 Act of the 101st General Assembly, the Department of
3 Corrections shall identify each individual serving a sentence
4 of imprisonment in the Department who may be eligible for
5 resentencing under subsection (a), and then notify the
6 prosecuting authority of the jurisdiction in which the person
7 was convicted. No later than 60 days after receiving notice
8 from the Department, the prosecuting authority shall petition
9 the trial court that entered the judgment of conviction to
10 request resentencing in accordance with the statutory penalty
11 in effect at the time of filing the petition.

12 (c) If the petition satisfies the criteria in subsection
13 (a), then a new sentencing hearing shall be held in accordance
14 with the Unified Code of Corrections. At the hearing, both the
15 defendant and the State may offer evidence of the defendant's
16 conduct during his or her period of absence from the court.
17 Defendants shall be entitled to have an attorney represent them
18 at the resentencing hearing. The court may impose any sentence
19 authorized by the Unified Code of Corrections, except that
20 resentencing under this Section may not result in the
21 imposition of a term of imprisonment or probation longer than
22 the original sentence. A person who is resentenced under this
23 subsection (c) shall be given credit for all time served in
24 custody or on probation, or both.

25 (d) A person who has completed his or her sentence for a
26 conviction of a felony offense for which the statutory penalty

1 has been subsequently reduced to a misdemeanor under this
2 amendatory Act of the 101st General Assembly may petition the
3 trial court that entered the judgment of conviction to
4 designate the felony conviction as a misdemeanor.

5 (e) If the petition satisfies the criteria in subsection
6 (d), then the court shall enter an order providing that the
7 felony offense of which the person was previously convicted is
8 designated as a misdemeanor under this Section.

9 (f) If a person has been charged prior to the effective
10 date of this amendatory Act of the 101st General Assembly with
11 a felony offense for which the statutory penalty has been
12 reduced to a misdemeanor under this amendatory Act of the 101st
13 General Assembly, the charges shall be modified to reflect the
14 new penalty.

15 (g) If a person is serving a sentence of probation for an
16 offense for which the penalty was subsequently reduced to a
17 misdemeanor under this amendatory Act of the 101st General
18 Assembly, and the person's probation is revoked under Section
19 4-6-4 of this Code, the person shall not be sentenced to a term
20 of incarceration that exceeds the current maximum sentence.

21 Section 25. The Unified Code of Corrections is amended by
22 adding Sections 5-6-3.7 and 5-6-3.8 as follows:

23 (730 ILCS 5/5-6-3.7 new)

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

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

4 (b) In this Section:

5 (1) "Appropriate and accessible" means an organization
6 providing services that are likely to be needed by a
7 participant in the Program, and whose location and hours of
8 service make transportation to and from reasonable for the
9 participant.

10 (2) "Human services organization" means any
11 organization equipped to provide screening services
12 described in paragraph (2) of subsection (e) or authorized
13 by the State to perform behavioral health treatment or
14 substance use intervention and treatment or other social
15 services, including, but not limited to, homeless
16 services, education, and job training and placement.

17 (3) "Violent offense" means any offense in which bodily
18 harm was inflicted or in which force was used against any
19 person or threatened against any person, any offense
20 involving sexual conduct, sexual penetration, or sexual
21 exploitation, any offense of domestic violence, domestic
22 battery, violation of an order of protection, stalking, or
23 hate crime.

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

1 (d) Whenever any person who does not have a felony case
2 pending is arrested for and charged with a misdemeanor offense
3 that is not a violent offense and does not involve the
4 possession of a firearm or dangerous weapon, the court, with
5 the consent of the defendant, may suspend the proceedings prior
6 to the entry of a finding of guilt or plea of guilty to
7 ascertain the defendant's eligibility to participate in and
8 complete the Misdemeanor Diversion Program. If the Program was
9 established by the State's Attorney, then except as otherwise
10 provided in this subsection (d), the defendant's eligibility to
11 participate in the Program shall be within the discretion of
12 the State's Attorney.

13 (e) The State's Attorney shall be responsible for
14 identifying eligible defendants. Placement into the Program
15 shall include the following:

16 (1) At the defendant's initial court appearance
17 appearance or soon as the defendant's eligibility for the
18 Program may be ascertained, the State's Attorney shall
19 inform the defendant of the existence of the Program, the
20 need for a preliminary screen for behavioral health or
21 other social service needs, the requirements for
22 successful completion, the implications of non-compliance,
23 and that successful completion shall result in dismissal of
24 the charge and the defendant's eligibility to petition for
25 sealing or expungement of his or her record with no waiting
26 period.

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

6 (3) If the screen does not indicate the defendant's
7 need for services, the court shall continue the case for
8 further proceedings under the Code of Criminal Procedure of
9 1963.

10 (4) If the screen indicates a need for services, the
11 defendant shall be considered eligible for participation.
12 Participation is voluntary. To participate, the defendant
13 shall sign a written agreement with the court that he or
14 she understands and agrees to the conditions of
15 participation, as set forth in subsection (f) of this
16 Section.

17 (5) Upon acceptance of the agreement by the court, the
18 human services organization responsible for the screening
19 shall refer the defendant to an appropriate and accessible
20 human services organization responsible for conducting a
21 comprehensive assessment and developing a service plan, as
22 described in subsection (f) of this Section.

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

1 (f) The defendant shall agree to submit to a more
2 comprehensive assessment of behavioral health and other social
3 service needs conducted by the human services organization to
4 which the defendant is referred. As a result of this
5 assessment, the organization shall prepare recommendations for
6 treatment and other social services which would likely benefit
7 the defendant, which the human services organization shall
8 present to and discuss with the defendant who may agree to
9 pursue treatment voluntarily. Adherence to the service plan
10 recommendations may not be a condition of participation.
11 Completion of all of the conditions of participation shall
12 occur no more than 90 days from the date of admission into the
13 Program.

14 (g) Under no circumstances shall the human services
15 organization performing either the brief screening, referral,
16 and reporting under subsection (e) or the assessment and
17 service recommendations under subsection (f) be required to
18 perform those services in the absence of reimbursement for
19 those services. The human services organization may already
20 have an existing mechanism for reimbursement, or a new
21 mechanism may be created by way of agreement with the court,
22 the State's Attorney, or the jurisdiction in which the
23 Misdemeanor Diversion Program was developed specifically for
24 the purposes of the Program.

25 (h) If all conditions of participation have been met, the
26 defendant shall be deemed to have successfully completed the

1 Program and the court shall dismiss the proceedings against the
2 defendant. Discharge and dismissal shall not be considered a
3 conviction for purposes of disqualification or disability
4 imposed by law upon conviction of a crime.

5 (i) Non-compliance with the conditions of participation,
6 or failure to complete the conditions of participation within
7 90 days, shall be considered a violation and the court shall
8 continue the case for further proceedings under the Code of
9 Criminal Procedure of 1963, as if the defendant had not
10 participated in the Program.

11 (730 ILCS 5/5-6-3.8 new)

12 Sec. 5-6-3.8. Eligibility for programs restricted by
13 felony background. Any conviction entered prior to the
14 effective date of this amendatory Act of the 101st General
15 Assembly for:

16 (1) felony possession of a controlled substance, or
17 possession with intent to manufacture or deliver a controlled
18 substance, in a total amount equal to or less than the amounts
19 listed in subsection (a-5) of Section 402 of the Illinois
20 Controlled Substances Act; or

21 (2) felony possession of methamphetamine, or possession
22 with intent to deliver methamphetamine, in an amount less than
23 3 grams; or any adjudication of delinquency under the Juvenile
24 Court Act of 1987 for acts that would have constituted those
25 felonies if committed by an adult, shall be treated as a Class

1 A misdemeanor for the purposes of evaluating a defendant's
2 eligibility for programs of qualified probation, impact
3 incarceration, or any other diversion, deflection, probation,
4 or other program for which felony background or delinquency
5 background is a factor in determining eligibility."