



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5352

by Rep. Marcus C. Evans, Jr.

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2  
30 ILCS 105/6z-112

Amends the Criminal Identification Act. Modifies a Section concerning expungement, sealing, and immediate sealing. Defines the term "cannabis offense" (currently, "minor cannabis offense") to mean a violation of the Cannabis Control Act concerning any amount (currently, not more than 30 grams) of any substance containing cannabis. Provides for the expungement of cannabis offense-related records. Amends the State Finance Act to make a conforming change.

LRB101 17874 RLC 67310 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

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

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

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

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

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

20 (vi) Imprisonment (730 ILCS 5/5-1-10),

21 (vii) Judgment (730 ILCS 5/5-1-12),

22 (viii) Misdemeanor (730 ILCS 5/5-1-14),

23 (ix) Offense (730 ILCS 5/5-1-15),

- 1 (x) Parole (730 ILCS 5/5-1-16),  
2 (xi) Petty Offense (730 ILCS 5/5-1-17),  
3 (xii) Probation (730 ILCS 5/5-1-18),  
4 (xiii) Sentence (730 ILCS 5/5-1-19),  
5 (xiv) Supervision (730 ILCS 5/5-1-21), and  
6 (xv) Victim (730 ILCS 5/5-1-22).

7 (B) As used in this Section, "charge not initiated  
8 by arrest" means a charge (as defined by 730 ILCS  
9 5/5-1-3) brought against a defendant where the  
10 defendant is not arrested prior to or as a direct  
11 result of the charge.

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

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

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

16           (F) As used in this Section, "last sentence" means  
17 the sentence, order of supervision, or order of  
18 qualified probation (as defined by subsection  
19 (a)(1)(J)), for a criminal offense (as defined by  
20 subsection (a)(1)(D)) that terminates last in time in  
21 any jurisdiction, regardless of whether the petitioner  
22 has included the criminal offense for which the  
23 sentence or order of supervision or qualified  
24 probation was imposed in his or her petition. If  
25 multiple sentences, orders of supervision, or orders  
26 of qualified probation terminate on the same day and

1 are last in time, they shall be collectively considered  
2 the "last sentence" regardless of whether they were  
3 ordered to run concurrently.

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

8 (G-5) "~~Minor~~ Cannabis Offense" means a violation  
9 of Section 4 or 5 of the Cannabis Control Act  
10 concerning any amount ~~not more than 30 grams~~ of any  
11 substance containing cannabis, provided the violation  
12 did not include a penalty enhancement under Section 7  
13 of the Cannabis Control Act and is not associated with  
14 an arrest, conviction or other disposition for a  
15 violent crime as defined in subsection (c) of Section 3  
16 of the Rights of Crime Victims and Witnesses Act.

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

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

25 (J) "Qualified probation" means an order of  
26 probation under Section 10 of the Cannabis Control Act,

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

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

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

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

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

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

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

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

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



1 subsection (a) of Section 11-503 or a similar provision  
2 of a local ordinance, that occurred prior to the  
3 offender reaching the age of 25 years and the offender  
4 has no other conviction for violating Section 11-501 or  
5 11-503 of the Illinois Vehicle Code or a similar  
6 provision of a local ordinance.

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

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

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

22 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,  
23 26-5, or 48-1 of the Criminal Code of 1961 or the  
24 Criminal Code of 2012, or a similar provision of a  
25 local ordinance;

26 (iii) Sections 12-3.1 or 12-3.2 of the

1 Criminal Code of 1961 or the Criminal Code of 2012,  
2 or Section 125 of the Stalking No Contact Order  
3 Act, or Section 219 of the Civil No Contact Order  
4 Act, or a similar provision of a local ordinance;

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

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

10 (D) (blank).

11 (b) Expungement.

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

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

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

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

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

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

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

26               (i-5) Those arrests or charges that resulted

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

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

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

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

26 (4) Whenever a person has been arrested for or

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

1 used.

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

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

26 (7) Nothing in this Section shall prevent the

1 Department of State Police from maintaining all records of  
2 any person who is admitted to probation upon terms and  
3 conditions and who fulfills those terms and conditions  
4 pursuant to Section 10 of the Cannabis Control Act, Section  
5 410 of the Illinois Controlled Substances Act, Section 70  
6 of the Methamphetamine Control and Community Protection  
7 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of  
8 Corrections, Section 12-4.3 or subdivision (b)(1) of  
9 Section 12-3.05 of the Criminal Code of 1961 or the  
10 Criminal Code of 2012, Section 10-102 of the Illinois  
11 Alcoholism and Other Drug Dependency Act, Section 40-10 of  
12 the Substance Use Disorder Act, or Section 10 of the  
13 Steroid Control Act.

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

21 (c) Sealing.

22 (1) Applicability. Notwithstanding any other provision  
23 of this Act to the contrary, and cumulative with any rights  
24 to expungement of criminal records, this subsection  
25 authorizes the sealing of criminal records of adults and of  
26 minors prosecuted as adults. Subsection (g) of this Section

1 provides for immediate sealing of certain records.

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

4 (A) All arrests resulting in release without  
5 charging;

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

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

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

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

26 (F) Arrests or charges not initiated by arrest



1 resulting in felony convictions unless otherwise  
2 excluded by subsection (a) paragraph (3) of this  
3 Section.

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

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

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

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

26 (D) Records identified in subsection

1 (a) (3) (A) (iii) may be sealed after the petitioner has  
2 reached the age of 25 years.

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

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

1 records previously ordered sealed by the court.

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

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

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

22 (1.5) County fee waiver pilot program. From August 9,  
23 2019 (the effective date of Public Act 101-306) through  
24 December 31, 2020, in a county of 3,000,000 or more  
25 inhabitants, no fee shall be required to be paid by a  
26 petitioner if the records sought to be expunged or sealed

1           were arrests resulting in release without charging or  
2           arrests or charges not initiated by arrest resulting in  
3           acquittal, dismissal, or conviction when the conviction  
4           was reversed or vacated, unless excluded by subsection  
5           (a)(3)(B). The provisions of this paragraph (1.5), other  
6           than this sentence, are inoperative on and after January 1,  
7           2021.

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

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

1 Substances Act, the Methamphetamine Control and Community  
2 Protection Act, and the Cannabis Control Act if he or she  
3 is petitioning to:

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

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

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

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

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

19 (5) Objections.

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

1 objection to the petition may not be filed.

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

5 (6) Entry of order.

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

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

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

1 financial obligation does not include any court  
2 ordered restitution to a victim under Section 5-5-6 of  
3 the Unified Code of Corrections, unless the  
4 restitution has been converted to a civil judgment.  
5 Nothing in this subparagraph (C) waives, rescinds, or  
6 abrogates a legal financial obligation or otherwise  
7 eliminates or affects the right of the holder of any  
8 financial obligation to pursue collection under  
9 applicable federal, State, or local law.

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

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

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

26 (C) the petitioner's age, criminal record history,

1 and employment history;

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

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

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

16 (9) Implementation of order.

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

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

26 (ii) the records of the circuit court clerk



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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 sentencing for any subsequent felony, and to the  
2 Department of Corrections upon conviction for any  
3 offense; and

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

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

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

1 shall send written notice to the petitioner of its  
2 compliance with an Appellate Court or Supreme Court  
3 judgment to expunge or seal records within 60 days of  
4 the issuance of the court's mandate. The notice is not  
5 required while any motion to vacate, modify, or  
6 reconsider, or any appeal or petition for  
7 discretionary appellate review, is pending.

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

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

1 proceedings for which those records have been sealed.

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

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

26 (12) Motion to Vacate, Modify, or Reconsider. Under

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

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

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

1 filed under paragraph (12) of this subsection (d) or is  
2 appealing the order.

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

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

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



1 further order of the court upon good cause shown or as  
2 otherwise provided herein, and the name of the defendant  
3 obliterated from the official index requested to be kept by the  
4 circuit court clerk under Section 16 of the Clerks of Courts  
5 Act in connection with the arrest and conviction for the  
6 offense for which he or she had been pardoned 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 to the  
10 arresting authority, the State's Attorney, and the court upon a  
11 later arrest for the same or similar offense or for the purpose  
12 of sentencing for any subsequent felony. Upon conviction for  
13 any subsequent offense, the Department of Corrections shall  
14 have access to all sealed records of the Department pertaining  
15 to that individual. Upon entry of the order of expungement, the  
16 circuit court clerk shall promptly mail a copy of the order to  
17 the person who was pardoned.

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

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

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

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

26 (f) Subject to available funding, the Illinois Department

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

12 (g) Immediate Sealing.

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

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

26 (3) When Records are Eligible to be Immediately Sealed.

1 Eligible records under paragraph (2) of this subsection (g)  
2 may be sealed immediately after entry of the final  
3 disposition of a case, notwithstanding the disposition of  
4 other charges in the same case.

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

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

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

26 (B) Contents of Petition. The immediate sealing

1 petition shall be verified and shall contain the  
2 petitioner's name, date of birth, current address, and  
3 for each eligible record, the case number, the date of  
4 arrest if applicable, the identity of the arresting  
5 authority if applicable, and other information as the  
6 court may require.

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

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

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

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

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

25 (H) Implementation of Order. An order to  
26 immediately seal records shall be implemented in

1 conformance with subsections (d) (9) (C) and (d) (9) (D).

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

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

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

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

1 terms based on a motion filed under subparagraph (L) of  
2 this subsection (g).

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

9 (h) Sealing; trafficking victims.

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

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



1 of trafficking under the federal Trafficking Victims  
2 Protection Act.

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

17 (i) ~~Minor~~ Cannabis Offenses under the Cannabis Control Act.

18 (1) Expungement of Arrest Records of ~~Minor~~ Cannabis  
19 Offenses.

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

1 (i) One year or more has elapsed since the date  
2 of the arrest or law enforcement interaction  
3 documented in the records; and

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

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

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

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

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

22 (iii) Records created prior to January 1, 2000  
23 shall be automatically expunged prior to January  
24 1, 2025.

25 In response to an inquiry for expunged records, the  
26 law enforcement agency receiving such inquiry shall

1 reply as it does in response to inquiries when no  
2 records ever existed; however, it shall provide a  
3 certificate of disposition or confirmation that the  
4 record was expunged to the individual whose record was  
5 expunged if such a record exists.

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

12 (2) Pardons Authorizing Expungement of ~~Minor~~ Cannabis  
13 Offenses.

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

19 (i) one or more convictions for a ~~Minor~~  
20 Cannabis Offense;

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

24 (iii) the conviction identified in paragraph  
25 (2) (A) (i) is not associated with a conviction for a  
26 violent crime as defined in subsection (c) of

1 Section 3 of the Rights of Crime Victims and  
2 Witnesses Act.

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

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

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

25 (iii) The Prisoner Review Board shall make a  
26 confidential and privileged recommendation to the

1 Governor as to whether to grant a pardon  
2 authorizing expungement for each of the records  
3 identified by the Department of State Police as  
4 described in paragraph (2) (A).

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

1           which the individual had received a pardon but the  
2           order shall not affect any index issued by the circuit  
3           court clerk before the entry of the order. Upon entry  
4           of the order of expungement, the circuit court clerk  
5           shall promptly provide a copy of the order and a  
6           certificate of disposition to the individual who was  
7           pardoned to the individual's last known address or by  
8           electronic means (if available) or otherwise make it  
9           available to the individual upon request.

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

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

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

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

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

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

25 (6) If a person is arrested for a ~~Minor~~ Cannabis  
26 Offense as defined in this Section before June 25, 2019



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

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

25 (8) The Department of State Police shall allow a person  
26 to use the access and review process, established in the

1 Department of State Police, for verifying that his or her  
2 records relating to ~~Minor~~ Cannabis Offenses of the Cannabis  
3 Control Act eligible under this Section have been expunged.

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

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

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

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

21 Section 10. The State Finance Act is amended by changing  
22 Section 6z-112 as follows:

23 (30 ILCS 105/6z-112)

24 Sec. 6z-112 ~~6z-107~~. The Cannabis Regulation Fund.

1 (a) There is created the Cannabis Regulation Fund in the  
2 State treasury, subject to appropriations unless otherwise  
3 provided in this Section. All moneys collected under the  
4 Cannabis Regulation and Tax Act shall be deposited into the  
5 Cannabis Regulation Fund, consisting of taxes, license fees,  
6 other fees, and any other amounts required to be deposited or  
7 transferred into the Fund.

8 (b) Whenever the Department of Revenue determines that a  
9 refund should be made under the Cannabis Regulation and Tax Act  
10 to a claimant, the Department of Revenue shall submit a voucher  
11 for payment to the State Comptroller, who shall cause the order  
12 to be drawn for the amount specified and to the person named in  
13 the notification from the Department of Revenue. This  
14 subsection (b) shall constitute an irrevocable and continuing  
15 appropriation of all amounts necessary for the payment of  
16 refunds out of the Fund as authorized under this subsection  
17 (b).

18 (c) On or before the 25th day of each calendar month, the  
19 Department of Revenue shall prepare and certify to the State  
20 Comptroller the transfer and allocations of stated sums of  
21 money from the Cannabis Regulation Fund to other named funds in  
22 the State treasury. The amount subject to transfer shall be the  
23 amount of the taxes, license fees, other fees, and any other  
24 amounts paid into the Fund during the second preceding calendar  
25 month, minus the refunds made under subsection (b) during the  
26 second preceding calendar month by the Department. The

1 transfers shall be certified as follows:

2 (1) The Department of Revenue shall first determine the  
3 allocations which shall remain in the Cannabis Regulation  
4 Fund, subject to appropriations, to pay for the direct and  
5 indirect costs associated with the implementation,  
6 administration, and enforcement of the Cannabis Regulation  
7 and Tax Act by the Department of Revenue, the Department of  
8 State Police, the Department of Financial and Professional  
9 Regulation, the Department of Agriculture, the Department  
10 of Public Health, the Department of Commerce and Economic  
11 Opportunity, and the Illinois Criminal Justice Information  
12 Authority.

13 (2) After the allocations have been made as provided in  
14 paragraph (1) of this subsection (c), of the remainder of  
15 the amount subject to transfer for the month as determined  
16 in this subsection (c), the Department shall certify the  
17 transfer into the Cannabis Expungement Fund 1/12 of the  
18 fiscal year amount appropriated from the Cannabis  
19 Expungement Fund for payment of costs incurred by State  
20 courts, the Attorney General, State's Attorneys, civil  
21 legal aid, as defined by Section 15 of the Public Interest  
22 Attorney Assistance Act, and the Department of State Police  
23 to facilitate petitions for expungement of ~~Minor~~ Cannabis  
24 Offenses pursuant to Public Act 101-27 ~~this amendatory Act~~  
25 ~~of the 101st General Assembly~~, as adjusted by any  
26 supplemental appropriation, plus cumulative deficiencies

1 in such transfers for prior months.

2 (3) After the allocations have been made as provided in  
3 paragraphs (1) and (2) of this subsection (c), the  
4 Department of Revenue shall certify to the State  
5 Comptroller and the State Treasurer shall transfer the  
6 amounts that the Department of Revenue determines shall be  
7 transferred into the following named funds according to the  
8 following:

9 (A) 2% shall be transferred to the Drug Treatment  
10 Fund to be used by the Department of Human Services  
11 for: (i) developing and administering a scientifically  
12 and medically accurate public education campaign  
13 educating youth and adults about the health and safety  
14 risks of alcohol, tobacco, illegal drug use (including  
15 prescription drugs), and cannabis, including use by  
16 pregnant women; and (ii) data collection and analysis  
17 of the public health impacts of legalizing the  
18 recreational use of cannabis. Expenditures for these  
19 purposes shall be subject to appropriations.

20 (B) 8% shall be transferred to the Local Government  
21 Distributive Fund and allocated as provided in Section  
22 2 of the State Revenue Sharing Act. The moneys shall be  
23 used to fund crime prevention programs, training, and  
24 interdiction efforts, including detection,  
25 enforcement, and prevention efforts, relating to the  
26 illegal cannabis market and driving under the

1 influence of cannabis.

2 (C) 25% shall be transferred to the Criminal  
3 Justice Information Projects Fund to be used for the  
4 purposes of the Restore, Reinvest, and Renew Program to  
5 address economic development, violence prevention  
6 services, re-entry services, youth development, and  
7 civil legal aid, as defined by Section 15 of the Public  
8 Interest Attorney Assistance Act. The Restore,  
9 Reinvest, and Renew Program shall address these issues  
10 through targeted investments and intervention programs  
11 and promotion of an employment infrastructure and  
12 capacity building related to the social determinants  
13 of health in impacted community areas. Expenditures  
14 for these purposes shall be subject to appropriations.

15 (D) 20% shall be transferred to the Department of  
16 Human Services Community Services Fund, to be used to  
17 address substance abuse and prevention and mental  
18 health concerns, including treatment, education, and  
19 prevention to address the negative impacts of  
20 substance abuse and mental health issues, including  
21 concentrated poverty, violence, and the historical  
22 overuse of criminal justice responses in certain  
23 communities, on the individual, family, and community,  
24 including federal, State, and local governments,  
25 health care institutions and providers, and  
26 correctional facilities. Expenditures for these

1 purposes shall be subject to appropriations.

2 (E) 10% shall be transferred to the Budget  
3 Stabilization Fund.

4 (F) 35%, or any remaining balance, shall be  
5 transferred to the General Revenue Fund.

6 As soon as may be practical, but no later than 10 days  
7 after receipt, by the State Comptroller of the transfer  
8 certification provided for in this subsection (c) to be given  
9 to the State Comptroller by the Department of Revenue, the  
10 State Comptroller shall direct and the State Treasurer shall  
11 transfer the respective amounts in accordance with the  
12 directions contained in such certification.

13 (d) On July 1, 2019 the Department of Revenue shall certify  
14 to the State Comptroller and the State Treasurer shall transfer  
15 \$5,000,000 from the Compassionate Use of Medical Cannabis Fund  
16 to the Cannabis Regulation Fund.

17 (e) Notwithstanding any other law to the contrary and  
18 except as otherwise provided in this Section, this Fund is not  
19 subject to sweeps, administrative charge-backs, or any other  
20 fiscal or budgetary maneuver that would in any way transfer any  
21 amounts from this Fund into any other fund of the State.

22 (f) The Cannabis Regulation Fund shall retain a balance of  
23 \$1,000,000 for the purposes of administrative costs.

24 (g) In Fiscal Year 2024 the allocations in subsection (c)  
25 of this Section shall be reviewed and adjusted if the General  
26 Assembly finds there is a greater need for funding for a

1 specific purpose in the State as it relates to Public Act  
2 101-27 ~~this amendatory Act of the 101st General Assembly.~~

3 (Source: P.A. 101-27, eff. 6-25-19; revised 9-23-19.)