



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5850

Introduced 11/10/2020, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2
410 ILCS 705/10-15
720 ILCS 550/4 rep.

Amends the Criminal Identification Act. Provides that the Illinois State Police and all law enforcement agencies within the State shall automatically expunge all criminal history records of an arrest, charge not initiated by arrest, order of supervision, or order of qualified probation for any person who, on or after January 1, 1970, has been convicted of, or is serving an order of supervision for, possession of cannabis whether or not the person has served or is serving his or her sentence for that violation on the effective date of the amendatory Act. Provides that the clerk of the circuit court shall, on the effective date of the amendatory Act, automatically expunge the court records of a person who, on or after January 1, 1970, has been convicted of, or is serving an order of supervision for, possession of cannabis whether or not the person has served or is serving his or her sentence for that violation on the effective date of the amendatory Act. Provides that a person imprisoned solely as a result of one or more convictions for possession of cannabis shall be released from incarceration on the effective date of the amendatory Act. Amends the Cannabis Control Act. Repeals the provision prohibiting the possession of cannabis. Amends the Cannabis Regulation and Tax Act to make conforming changes. Effective immediately.

LRB101 22350 RLC 73407 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning cannabis.

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 indicated Sections of the
 14 Unified Code of Corrections, 730 ILCS 5/5-1-2 through
 15 5/5-1-22:

16 (i) Business Offense, Section 5-1-2. ~~(730 ILCS~~
 17 ~~5/5-1-2),~~

18 (ii) Charge, Section 5-1-3. ~~(730 ILCS~~
 19 ~~5/5-1-3),~~

20 (iii) Court, Section 5-1-6. ~~(730 ILCS~~
 21 ~~5/5-1-6),~~

22 (iv) Defendant, Section 5-1-7. ~~(730 ILCS~~
 23 ~~5/5-1-7),~~

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

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

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

16 (D) "Criminal offense" means a petty offense,
17 business offense, misdemeanor, felony, or municipal
18 ordinance violation (as defined in subsection
19 (a)(1)(H)). As used in this Section, a minor traffic
20 offense (as defined in subsection (a)(1)(G)) shall not
21 be considered a criminal offense.

22 (E) "Expunge" means to physically destroy the
23 records or return them to the petitioner and to
24 obliterate the petitioner's name from any official
25 index or public record, or both. Nothing in this Act
26 shall require the physical destruction of the circuit

1 court file, but such records relating to arrests or
2 charges, or both, ordered expunged shall be impounded
3 as required by subsections (d)(9)(A)(ii) and
4 (d)(9)(B)(ii).

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

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

23 (G-5) "Minor Cannabis Offense" means a violation
24 of Section 4 or 5 of the Cannabis Control Act
25 concerning not more than 30 grams of any substance
26 containing cannabis, provided the violation did not

1 include a penalty enhancement under Section 7 of the
2 Cannabis Control Act and is not associated with an
3 arrest, conviction or other disposition for a violent
4 crime as defined in subsection (c) of Section 3 of the
5 Rights of Crime Victims and Witnesses Act.

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

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

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

1 qualified probation under Section 10-102 of the
2 Illinois Alcoholism and Other Drug Dependency Act and
3 Section 40-10 of the Substance Use Disorder Act means
4 that the probation was terminated satisfactorily and
5 the judgment of conviction was vacated.

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

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

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

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

5 (2.5) Commencing 180 days after July 29, 2016 (the
6 effective date of Public Act 99-697), the law enforcement
7 agency issuing the citation shall automatically expunge,
8 on or before January 1 and July 1 of each year, the law
9 enforcement records of a person found to have committed a
10 civil law violation of subsection (a) of Section 4 of the
11 Cannabis Control Act or subsection (c) of Section 3.5 of
12 the Drug Paraphernalia Control Act in the law enforcement
13 agency's possession or control and which contains the final
14 satisfactory disposition which pertain to the person
15 issued a citation for that offense. The law enforcement
16 agency shall provide by rule the process for access,
17 review, and to confirm the automatic expungement by the law
18 enforcement agency issuing the citation. Commencing 180
19 days after July 29, 2016 (the effective date of Public Act
20 99-697), the clerk of the circuit court shall expunge, upon
21 order of the court, or in the absence of a court order on
22 or before January 1 and July 1 of each year, the court
23 records of a person found in the circuit court to have
24 committed a civil law violation of subsection (a) of
25 Section 4 of the Cannabis Control Act or subsection (c) of
26 Section 3.5 of the Drug Paraphernalia Control Act in the

1 clerk's possession or control and which contains the final
2 satisfactory disposition which pertain to the person
3 issued a citation for any of those offenses.

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

7 (A) the sealing or expungement of the records of
8 arrests or charges not initiated by arrest that result
9 in an order of supervision for or conviction of: (i)
10 any sexual offense committed against a minor; (ii)
11 Section 11-501 of the Illinois Vehicle Code or a
12 similar provision of a local ordinance; or (iii)
13 Section 11-503 of the Illinois Vehicle Code or a
14 similar provision of a local ordinance, unless the
15 arrest or charge is for a misdemeanor violation of
16 subsection (a) of Section 11-503 or a similar provision
17 of a local ordinance, that occurred prior to the
18 offender reaching the age of 25 years and the offender
19 has no other conviction for violating Section 11-501 or
20 11-503 of the Illinois Vehicle Code or a similar
21 provision of a local ordinance.

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

26 (C) the sealing of the records of arrests or

1 charges not initiated by arrest which result in an
2 order of supervision or a conviction for the following
3 offenses:

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

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

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

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

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

25 (D) (blank).

26 (b) Expungement.

1 (1) A petitioner may petition the circuit court to
2 expunge the records of his or her arrests and charges not
3 initiated by arrest when each arrest or charge not
4 initiated by arrest sought to be expunged resulted in: (i)
5 acquittal, dismissal, or the petitioner's release without
6 charging, unless excluded by subsection (a)(3)(B); (ii) a
7 conviction which was vacated or reversed, unless excluded
8 by subsection (a)(3)(B); (iii) an order of supervision and
9 such supervision was successfully completed by the
10 petitioner, unless excluded by subsection (a)(3)(A) or
11 (a)(3)(B); or (iv) an order of qualified probation (as
12 defined in subsection (a)(1)(J)) and such probation was
13 successfully completed by the petitioner.

14 (1.5) When a petitioner seeks to have a record of
15 arrest expunged under this Section, and the offender has
16 been convicted of a criminal offense, the State's Attorney
17 may object to the expungement on the grounds that the
18 records contain specific relevant information aside from
19 the mere fact of the arrest.

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

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

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

5 (i) Those arrests or charges that resulted in
6 orders of supervision under Section 3-707, 3-708,
7 3-710, or 5-401.3 of the Illinois Vehicle Code or a
8 similar provision of a local ordinance, or under
9 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
10 Code of 1961 or the Criminal Code of 2012, or a
11 similar provision of a local ordinance, shall not
12 be eligible for expungement until 5 years have
13 passed following the satisfactory termination of
14 the supervision.

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

26 (ii) Those arrests or charges that resulted in

1 orders of supervision for any other offenses shall
2 not be eligible for expungement until 2 years have
3 passed following the satisfactory termination of
4 the supervision.

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

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

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

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

17 (5) Whenever a person has been convicted of criminal
18 sexual assault, aggravated criminal sexual assault,
19 predatory criminal sexual assault of a child, criminal
20 sexual abuse, or aggravated criminal sexual abuse, the
21 victim of that offense may request that the State's
22 Attorney of the county in which the conviction occurred
23 file a verified petition with the presiding trial judge at
24 the petitioner's trial to have a court order entered to
25 seal the records of the circuit court clerk in connection
26 with the proceedings of the trial court concerning that

1 offense. However, the records of the arresting authority
2 and the Department of State Police concerning the offense
3 shall not be sealed. The court, upon good cause shown,
4 shall make the records of the circuit court clerk in
5 connection with the proceedings of the trial court
6 concerning the offense available for public inspection.

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

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

1 the Substance Use Disorder Act, or Section 10 of the
2 Steroid Control Act.

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

10 (c) Sealing.

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

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

19 (A) All arrests resulting in release without
20 charging;

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

25 (C) Arrests or charges not initiated by arrest
26 resulting in orders of supervision, including orders

1 of supervision for municipal ordinance violations,
2 successfully completed by the petitioner, unless
3 excluded by subsection (a) (3);

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

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

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

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

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

25 (B) Except as otherwise provided in subparagraph
26 (E) of this paragraph (3), records identified as

1 eligible under subsection (c)(2)(C) may be sealed 2
2 years after the termination of petitioner's last
3 sentence (as defined in subsection (a)(1)(F)).

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

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

18 (E) Records identified as eligible under
19 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or
20 (c)(2)(F) may be sealed upon termination of the
21 petitioner's last sentence if the petitioner earned a
22 high school diploma, associate's degree, career
23 certificate, vocational technical certification, or
24 bachelor's degree, or passed the high school level Test
25 of General Educational Development, during the period
26 of his or her sentence or mandatory supervised release.

1 This subparagraph shall apply only to a petitioner who
2 has not completed the same educational goal prior to
3 the period of his or her sentence or mandatory
4 supervised release. If a petition for sealing eligible
5 records filed under this subparagraph is denied by the
6 court, the time periods under subparagraph (B) or (C)
7 shall apply to any subsequent petition for sealing
8 filed by the petitioner.

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

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

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

25 (1) Filing the petition. Upon becoming eligible to
26 petition for the expungement or sealing of records under

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

11 (1.5) County fee waiver pilot program. From August 9,
12 2019 (the effective date of Public Act 101-306) through
13 December 31, 2020, in a county of 3,000,000 or more
14 inhabitants, no fee shall be required to be paid by a
15 petitioner if the records sought to be expunged or sealed
16 were arrests resulting in release without charging or
17 arrests or charges not initiated by arrest resulting in
18 acquittal, dismissal, or conviction when the conviction
19 was reversed or vacated, unless excluded by subsection
20 (a)(3)(B). The provisions of this paragraph (1.5), other
21 than this sentence, are inoperative on and after January 1,
22 2022.

23 (2) Contents of petition. The petition shall be
24 verified and shall contain the petitioner's name, date of
25 birth, current address and, for each arrest or charge not
26 initiated by arrest sought to be sealed or expunged, the

1 case number, the date of arrest (if any), the identity of
2 the arresting authority, and such other information as the
3 court may require. During the pendency of the proceeding,
4 the petitioner shall promptly notify the circuit court
5 clerk of any change of his or her address. If the
6 petitioner has received a certificate of eligibility for
7 sealing from the Prisoner Review Board under paragraph (10)
8 of subsection (a) of Section 3-3-2 of the Unified Code of
9 Corrections, the certificate shall be attached to the
10 petition.

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

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

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

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

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

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

8 (5) Objections.

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

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

20 (6) Entry of order.

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

1 subsection (d) (6).

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

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

25 (7) Hearings. If an objection is filed, the court shall
26 set a date for a hearing and notify the petitioner and all

1 parties entitled to notice of the petition of the hearing
2 date at least 30 days prior to the hearing. Prior to the
3 hearing, the State's Attorney shall consult with the
4 Department as to the appropriateness of the relief sought
5 in the petition to expunge or seal. At the hearing, the
6 court shall hear evidence on whether the petition should or
7 should not be granted, and shall grant or deny the petition
8 to expunge or seal the records based on the evidence
9 presented at the hearing. The court may consider the
10 following:

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

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

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

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

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

22 (8) Service of order. After entering an order to
23 expunge or seal records, the court must provide copies of
24 the order to the Department, in a form and manner
25 prescribed by the Department, to the petitioner, to the
26 State's Attorney or prosecutor charged with the duty of

1 prosecuting the offense, to the arresting agency, to the
2 chief legal officer of the unit of local government
3 effecting the arrest, and to such other criminal justice
4 agencies as may be ordered by the court.

5 (9) Implementation of order.

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

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

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

24 (iii) in response to an inquiry for expunged
25 records, the court, the Department, or the agency
26 receiving such inquiry, shall reply as it does in

1 response to inquiries when no records ever
2 existed.

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

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

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

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

26 (iv) records impounded by the Department may

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

8 (v) in response to an inquiry for such records
9 from anyone not authorized by law to access such
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-5) Upon entry of an order to expunge records
15 under subsection (e-6):

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 under 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 under paragraph (12) of subsection (d) of this
10 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 these records
20 from anyone not authorized by law to access the
21 records, the court, the Department, or the agency
22 receiving the inquiry shall reply as it does in
23 response to inquiries when no records ever
24 existed.

25 (C) Upon entry of an order to seal records under
26 subsection (c), the arresting agency, any other agency

1 as ordered by the court, the Department, and the court
2 shall seal the records (as defined in subsection
3 (a) (1) (K)). In response to an inquiry for such records,
4 from anyone not authorized by law to access such
5 records, the court, the Department, or the agency
6 receiving such inquiry shall reply as it does in
7 response to inquiries when no records ever existed.

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

23 (E) Upon motion, the court may order that a sealed
24 judgment or other court record necessary to
25 demonstrate the amount of any legal financial
26 obligation due and owing be made available for the

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

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

17 (10) Fees. The Department may charge the petitioner a
18 fee equivalent to the cost of processing any order to
19 expunge or seal records. Notwithstanding any provision of
20 the Clerks of Courts Act to the contrary, the circuit court
21 clerk may charge a fee equivalent to the cost associated
22 with the sealing or expungement of records by the circuit
23 court clerk. From the total filing fee collected for the
24 petition to seal or expunge, the circuit court clerk shall
25 deposit \$10 into the Circuit Court Clerk Operation and
26 Administrative Fund, to be used to offset the costs

1 incurred by the circuit court clerk in performing the
2 additional duties required to serve the petition to seal or
3 expunge on all parties. The circuit court clerk shall
4 collect and forward the Department of State Police portion
5 of the fee to the Department and it shall be deposited in
6 the State Police Services Fund. If the record brought under
7 an expungement petition was previously sealed under this
8 Section, the fee for the expungement petition for that same
9 record shall be waived.

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

15 (12) Motion to Vacate, Modify, or Reconsider. Under
16 Section 2-1203 of the Code of Civil Procedure, the
17 petitioner or any party entitled to notice may file a
18 motion to vacate, modify, or reconsider the order granting
19 or denying the petition to expunge or seal within 60 days
20 of service of the order. If filed more than 60 days after
21 service of the order, a petition to vacate, modify, or
22 reconsider shall comply with subsection (c) of Section
23 2-1401 of the Code of Civil Procedure. Upon filing of a
24 motion to vacate, modify, or reconsider, notice of the
25 motion shall be served upon the petitioner and all parties
26 entitled to notice of the petition.

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

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

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

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

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

1 of sentencing for any subsequent felony. Upon conviction for
2 any subsequent offense, the Department of Corrections shall
3 have access to all sealed records of the Department pertaining
4 to that individual. Upon entry of the order of expungement, the
5 circuit court clerk shall promptly mail a copy of the order to
6 the person who was pardoned.

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

1 required by this Act or to the arresting authority, a law
2 enforcement agency, the State's Attorney, and the court upon a
3 later arrest for the same or similar offense or for the purpose
4 of sentencing for any subsequent felony. Upon conviction for
5 any subsequent offense, the Department of Corrections shall
6 have access to all sealed records of the Department pertaining
7 to that individual. Upon entry of the order of sealing, the
8 circuit court clerk shall promptly mail a copy of the order to
9 the person who was granted the certificate of eligibility for
10 sealing.

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

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

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

1 (g) Immediate Sealing.

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

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

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

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

26 (5) Procedure. The following procedures apply to

1 immediate sealing under this subsection (g).

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

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

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

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

1 the petition on any other agency.

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

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

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

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

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

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

25 (K) Motion to Vacate, Modify, or Reconsider. Under
26 Section 2-1203 of the Code of Civil Procedure, the

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

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

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

24 (h) Sealing; trafficking victims.

25 (1) A trafficking victim as defined by paragraph (10)
26 of subsection (a) of Section 10-9 of the Criminal Code of

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

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

18 (3) If an objection is filed alleging that the
19 petitioner is not entitled to immediate sealing under this
20 subsection (h), the court shall conduct a hearing under
21 paragraph (7) of subsection (d) of this Section and the
22 court shall determine whether the petitioner is entitled to
23 immediate sealing under this subsection (h). A petitioner
24 is eligible for immediate relief under this subsection (h)
25 if he or she shows, by a preponderance of the evidence,
26 that: (A) he or she was a victim of human trafficking at

1 the time of the offense; and (B) that his or her
2 participation in the offense was a direct result of human
3 trafficking under Section 10-9 of the Criminal Code of 2012
4 or a severe form of trafficking under the federal
5 Trafficking Victims Protection Act.

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

7 (1) Expungement of Arrest Records of Minor Cannabis
8 Offenses.

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

16 (i) One year or more has elapsed since the date
17 of the arrest or law enforcement interaction
18 documented in the records; and

19 (ii) No criminal charges were filed relating
20 to the arrest or law enforcement interaction or
21 criminal charges were filed and subsequently
22 dismissed or vacated or the arrestee was
23 acquitted.

24 (B) If the law enforcement agency is unable to
25 verify satisfaction of condition (ii) in paragraph
26 (A), records that satisfy condition (i) in paragraph

1 (A) shall be automatically expunged.

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

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

8 (ii) Records created prior to January 1, 2013,
9 but on or after January 1, 2000, shall be
10 automatically expunged prior to January 1, 2023;

11 (iii) Records created prior to January 1, 2000
12 shall be automatically expunged prior to January
13 1, 2025.

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

21 (D) Nothing in this Section shall be construed to
22 restrict or modify an individual's right to have that
23 individual's records expunged except as otherwise may
24 be provided in this Act, or diminish or abrogate any
25 rights or remedies otherwise available to the
26 individual.

1 (2) Pardons Authorizing Expungement of Minor Cannabis
2 Offenses.

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

8 (i) one or more convictions for a Minor
9 Cannabis Offense;

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

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

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

23 (i) The Prisoner Review Board shall notify the
24 State's Attorney of the county of conviction of
25 each record identified by State Police in
26 paragraph (2)(A) that is classified as a Class 4

1 felony. The State's Attorney may provide a written
2 objection to the Prisoner Review Board on the sole
3 basis that the record identified does not meet the
4 criteria established in paragraph (2) (A). Such an
5 objection must be filed within 60 days or by such
6 later date set by the Prisoner Review Board in the
7 notice after the State's Attorney received notice
8 from the Prisoner Review Board.

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

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

20 (C) If an individual has been granted a pardon
21 authorizing expungement as described in this Section,
22 the Prisoner Review Board, through the Attorney
23 General, shall file a petition for expungement with the
24 Chief Judge of the circuit or any judge of the circuit
25 designated by the Chief Judge where the individual had
26 been convicted. Such petition may include more than one

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

25 (D) Nothing in this Section is intended to diminish
26 or abrogate any rights or remedies otherwise available

1 to the individual.

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

1 assisting individuals seeking to file a motion to vacate
2 and expunge under this subsection may file motions to
3 vacate and expunge with the Chief Judge of a judicial
4 circuit or any judge of the circuit designated by the Chief
5 Judge, and the motion may include more than one individual.
6 Motions filed by an agency providing civil legal aid
7 concerning more than one individual may be prepared,
8 presented, and signed electronically.

9 (4) Any State's Attorney may file a motion to vacate
10 and expunge a conviction for a misdemeanor or Class 4
11 felony violation of Section 4 or Section 5 of the Cannabis
12 Control Act. Motions to vacate and expunge under this
13 subsection (i) may be filed with the circuit court, Chief
14 Judge of a judicial circuit or any judge of the circuit
15 designated by the Chief Judge, and may include more than
16 one individual. Motions filed by a State's Attorney
17 concerning more than one individual may be prepared,
18 presented, and signed electronically. When considering
19 such a motion to vacate and expunge, a court shall consider
20 the following: the reasons to retain the records provided
21 by law enforcement, the individual's age, the individual's
22 age at the time of offense, the time since the conviction,
23 and the specific adverse consequences if denied. Upon entry
24 of an order granting a motion to vacate and expunge records
25 pursuant to this Section, the State's Attorney shall notify
26 the Prisoner Review Board within 30 days. Upon entry of the

1 order of expungement, the circuit court clerk shall
2 promptly provide a copy of the order and a certificate of
3 disposition to the individual whose records will be
4 expunged to the individual's last known address or by
5 electronic means (if available) or otherwise make
6 available to the individual upon request. If a motion to
7 vacate and expunge is granted, the records shall be
8 expunged in accordance with subparagraphs (d)(8) and
9 (d)(9)(A) of this Section.

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

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

1 been sentenced of the minor cannabis violation eligible for
2 expungement under this subsection, the court shall
3 consider the following: the reasons to retain the records
4 provided by law enforcement, the petitioner's age, the
5 petitioner's age at the time of offense, the time since the
6 conviction, and the specific adverse consequences if
7 denied. If a motion to dismiss and expunge is granted, the
8 records shall be expunged in accordance with subparagraph
9 (d) (9) (A) of this Section.

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

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

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

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

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

4 (j) Notwithstanding any other provision of this Section to
5 the contrary, the Illinois State Police and all law enforcement
6 agencies within the State shall automatically expunge all
7 criminal history records of an arrest, charge not initiated by
8 arrest, order of supervision, or order of qualified probation
9 for any person who, on or after January 1, 1970, has been
10 convicted of, pled guilty to, or is serving an order of
11 supervision for, a violation of Section 4 of the Cannabis
12 Control Act or a predecessor law of this State prohibiting the
13 possession of cannabis whether or not the person has served or
14 is serving his or her sentence for that violation on the
15 effective date of this amendatory Act of the 101st General
16 Assembly. The clerk of the circuit court shall, on the
17 effective date of this amendatory Act of the 101st General
18 Assembly, automatically expunge the court records of a person
19 who, on or after January 1, 1970, has been convicted of, or is
20 serving an order of supervision for, a violation of Section 4
21 of the Cannabis Control Act or a predecessor law of this State
22 prohibiting the possession of cannabis whether or not the
23 person has served or is serving his or her sentence for that
24 violation on the effective date of this amendatory Act of the
25 101st General Assembly. A person imprisoned solely as a result
26 of one or more convictions for a violation of Section 4 of the

1 Cannabis Control Act under this subsection (j) shall be
2 released from incarceration on the effective date of this
3 amendatory Act of the 101st General Assembly.

4 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;
5 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.
6 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,
7 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
8 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
9 12-4-19; 101-645, eff. 6-26-20; revised 8-18-20.)

10 Section 10. The Cannabis Regulation and Tax Act is amended
11 by changing Section 10-15 as follows:

12 (410 ILCS 705/10-15)

13 Sec. 10-15. Persons under 21 years of age.

14 (a) Nothing in this Act is intended to permit the transfer
15 of cannabis, with or without remuneration, to a person under 21
16 years of age, or to allow a person under 21 years of age to
17 purchase, possess, use, process, transport, grow, or consume
18 cannabis except where authorized by the Compassionate Use of
19 Medical Cannabis Program Act or by the Community College
20 Cannabis Vocational Pilot Program.

21 (b) Notwithstanding any other provisions of law
22 authorizing the possession of medical cannabis, nothing in this
23 Act authorizes a person who is under 21 years of age to possess
24 cannabis. A person under 21 years of age with cannabis in his

1 or her possession is guilty of a civil law violation as
2 outlined in paragraph (a) of Section 4 of the Cannabis Control
3 Act as it existed on the effective date of this amendatory Act
4 of the 101st General Assembly.

5 (c) If the person under the age of 21 was in a motor
6 vehicle at the time of the offense, the Secretary of State may
7 suspend or revoke the driving privileges of any person for a
8 violation of this Section under Section 6-206 of the Illinois
9 Vehicle Code and the rules adopted under it.

10 (d) It is unlawful for any parent or guardian to knowingly
11 permit his or her residence, any other private property under
12 his or her control, or any vehicle, conveyance, or watercraft
13 under his or her control to be used by an invitee of the
14 parent's child or the guardian's ward, if the invitee is under
15 the age of 21, in a manner that constitutes a violation of this
16 Section. A parent or guardian is deemed to have knowingly
17 permitted his or her residence, any other private property
18 under his or her control, or any vehicle, conveyance, or
19 watercraft under his or her control to be used in violation of
20 this Section if he or she knowingly authorizes or permits
21 consumption of cannabis by underage invitees. Any person who
22 violates this subsection (d) is guilty of a Class A misdemeanor
23 and the person's sentence shall include, but shall not be
24 limited to, a fine of not less than \$500. If a violation of
25 this subsection (d) directly or indirectly results in great
26 bodily harm or death to any person, the person violating this

1 subsection is guilty of a Class 4 felony. In this subsection
2 (d), where the residence or other property has an owner and a
3 tenant or lessee, the trier of fact may infer that the
4 residence or other property is occupied only by the tenant or
5 lessee.

6 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

7 (720 ILCS 550/4 rep.)

8 Section 15. The Cannabis Control Act is amended by
9 repealing Section 4.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.