

# SB1816



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1816

Introduced 2/15/2019, by Sen. Kimberly A. Lightford

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that notwithstanding any other provision relating to expungement of conviction records, a petitioner may petition the circuit court to expunge records of a conviction or plea of guilty for possession of not more than 10 grams of any substance containing cannabis or possession of drug paraphernalia seized in relation to possession of not more than 10 grams of any substance containing cannabis before July 29, 2016, (the effective date of Public Act 99-697) if 3 years or more have passed since the petitioner has completed his or her sentence.

LRB101 11063 SLF 56267 b

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

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

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

1 of the Steroid Control Act. For the purpose of this  
2 Section, "successful completion" of an order of  
3 qualified probation under Section 10-102 of the  
4 Illinois Alcoholism and Other Drug Dependency Act and  
5 Section 40-10 of the Substance Use Disorder Act means  
6 that the probation was terminated satisfactorily and  
7 the judgment of conviction was vacated.

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

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

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

1 outstanding financial legal obligation.

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

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

1 Section 3.5 of the Drug Paraphernalia Control Act in the  
2 clerk's possession or control and which contains the final  
3 satisfactory disposition which pertain to the person  
4 issued a citation for any of those offenses.

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

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

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



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

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

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

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

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

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

26 (D) (blank).

1 (b) Expungement.

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

15 (1.3) Notwithstanding any other provision of this  
16 Section, a petitioner may petition the circuit court to  
17 expunge records of a conviction or plea of guilty for an  
18 offense under subsection (a) of Section 4 of the Cannabis  
19 Control Act or subsection (c) of Section 3.5 of the Drug  
20 Paraphernalia Control Act before July 29, 2016, (the  
21 effective date of Public Act 99-697) if 3 years or more  
22 have passed since the petitioner has completed his or her  
23 sentence.

24 (1.5) When a petitioner seeks to have a record of  
25 arrest expunged under this Section, and the offender has  
26 been convicted of a criminal offense, the State's Attorney

1           may object to the expungement on the grounds that the  
2           records contain specific relevant information aside from  
3           the mere fact of the arrest.

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

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

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

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

25           (i-5) Those arrests or charges that resulted  
26           in orders of supervision for a misdemeanor

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

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

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

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

25 (4) Whenever a person has been arrested for or  
26 convicted of any offense, in the name of a person whose

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

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

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

25           (7) Nothing in this Section shall prevent the  
26 Department of State Police from maintaining all records of

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

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

20 (c) Sealing.

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

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

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

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

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

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

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

25           (F) Arrests or charges not initiated by arrest  
26 resulting in felony convictions unless otherwise



1 excluded by subsection (a) paragraph (3) of this  
2 Section.

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

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

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

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

25 (D) Records identified in subsection  
26 (a)(3)(A)(iii) may be sealed after the petitioner has

1 reached the age of 25 years.

2 (E) Records identified as eligible under  
3 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or  
4 (c)(2)(F) may be sealed upon termination of the  
5 petitioner's last sentence if the petitioner earned a  
6 high school diploma, associate's degree, career  
7 certificate, vocational technical certification, or  
8 bachelor's degree, or passed the high school level Test  
9 of General Educational Development, during the period  
10 of his or her sentence, aftercare release, or mandatory  
11 supervised release. This subparagraph shall apply only  
12 to a petitioner who has not completed the same  
13 educational goal prior to the period of his or her  
14 sentence, aftercare release, or mandatory supervised  
15 release. If a petition for sealing eligible records  
16 filed under this subparagraph is denied by the court,  
17 the time periods under subparagraph (B) or (C) shall  
18 apply to any subsequent petition for sealing filed by  
19 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. In a county of  
23 3,000,000 or more inhabitants, no fee shall be required to  
24 be paid by a petitioner if the records sought to be  
25 expunged or sealed were arrests resulting in release  
26 without charging or arrests or charges not initiated by

1       arrest resulting in acquittal, dismissal, or conviction  
2       when the conviction was reversed or vacated, unless  
3       excluded by subsection (a)(3)(B). The provisions of this  
4       paragraph (1.5), other than this sentence, are inoperative  
5       on and after January 1, 2019.

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

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

1 is petitioning to:

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

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

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

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

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

17 (5) Objections.

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

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

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

3 (6) Entry of order.

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

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

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

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

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

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

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

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

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

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

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

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

14          (9) Implementation of order.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 offense; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

10 (g) Immediate Sealing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7           (h) Sealing; trafficking victims.

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

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



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

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