

SB2496



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2496

Introduced 1/28/2020, by Sen. Christopher Belt and Jason A. Barickman

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that no fee shall be required if the records sought to be expunged or sealed were arrests resulting in release without charging or arrests or charges not initiated by arrest resulting in acquittal, dismissal, or conviction when the conviction was reversed or vacated, except for the expungement or sealing of certain records of minor traffic violations. Eliminates the county fee waiver pilot program that was only applicable in counties of 3,000,000 or more inhabitants that was set to expire on January 1, 2021.

LRB101 15579 RLC 64925 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (D) (blank).

11 (b) Expungement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 used.

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

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

26 (7) Nothing in this Section shall prevent the

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

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

21 (c) Sealing.

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

1 provides for immediate sealing of certain records.

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

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

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

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

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

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

26 (F) Arrests or charges not initiated by arrest

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

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

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

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

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

26 (D) Records identified in subsection

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

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

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

1 records previously ordered sealed by the court.

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

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

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

22 (1.5) Fee County fee waiver pilot program. No fee shall
23 be required if the records sought to be expunged or sealed
24 were arrests resulting in release without charging or
25 arrests or charges not initiated by arrest resulting in
26 acquittal, dismissal, or conviction when the conviction

1 was reversed or vacated, except as excluded by subsection
2 (a) (3) (B) ~~From the effective date of this amendatory Act of~~
3 ~~the 101st General Assembly through December 31, 2020, in a~~
4 ~~county of 3,000,000 or more inhabitants, no fee shall be~~
5 ~~required to be paid by a petitioner if the records sought~~
6 ~~to be expunged or sealed were arrests resulting in release~~
7 ~~without charging or arrests or charges not initiated by~~
8 ~~arrest resulting in acquittal, dismissal, or conviction~~
9 ~~when the conviction was reversed or vacated, unless~~
10 ~~excluded by subsection (a) (3) (B). The provisions of this~~
11 ~~paragraph (1.5), other than this sentence, are inoperative~~
12 ~~on and after January 1, 2021.~~

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

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

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

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

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

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

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

24 (5) Objections.

25 (A) Any party entitled to notice of the petition
26 may file an objection to the petition. All objections

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

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

10 (6) Entry of order.

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

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

24 (C) Notwithstanding any other provision of law,
25 the court shall not deny a petition for sealing under
26 this Section because the petitioner has not satisfied

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

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

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

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

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

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

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

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

21 (9) Implementation of order.

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

24 (i) the records shall be expunged (as defined
25 in subsection (a) (1) (E)) by the arresting agency,
26 the Department, and any other agency as ordered by

1 the court, within 60 days of the date of service of
2 the order, unless a motion to vacate, modify, or
3 reconsider the order is filed pursuant to
4 paragraph (12) of subsection (d) of this Section;

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

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

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

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

1 subsection (d) of this Section;

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

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

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

24 (v) in response to an inquiry for such records
25 from anyone not authorized by law to access such
26 records, the court, the Department, or the agency

1 receiving such inquiry shall reply as it does in
2 response to inquiries when no records ever
3 existed.

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

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

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

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

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

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

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

24 (D) The Department shall send written notice to the
25 petitioner of its compliance with each order to expunge
26 or seal records within 60 days of the date of service

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

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

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

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

26 (11) Final Order. No court order issued under the

1 expungement or sealing provisions of this Section shall
2 become final for purposes of appeal until 30 days after
3 service of the order on the petitioner and all parties
4 entitled to notice of the petition.

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

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

26 (14) Compliance with Order Granting Petition to Seal

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

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

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

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

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

23 (e-5) Whenever a person who has been convicted of an
24 offense is granted a certificate of eligibility for sealing by
25 the Prisoner Review Board which specifically authorizes
26 sealing, he or she may, upon verified petition to the Chief

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

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

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

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

17 (g) Immediate Sealing.

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

23 (2) Eligible Records. Arrests or charges not initiated
24 by arrest resulting in acquittal or dismissal with
25 prejudice, except as excluded by subsection (a)(3)(B),
26 that occur on or after January 1, 2018 (the effective date

1 of Public Act 100-282), may be sealed immediately if the
2 petition is filed with the circuit court clerk on the same
3 day and during the same hearing in which the case is
4 disposed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (L) Effect of Order. An order granting an immediate
26 sealing petition shall not be considered void because

1 it fails to comply with the provisions of this Section
2 or because of an error asserted in a motion to vacate,
3 modify, or reconsider. The circuit court retains
4 jurisdiction to determine whether the order is
5 voidable, and to vacate, modify, or reconsider its
6 terms based on a motion filed under subparagraph (L) of
7 this subsection (g).

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

14 (h) Sealing; trafficking victims.

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

24 (2) A petitioner under this subsection (h), in addition
25 to the requirements provided under paragraph (4) of
26 subsection (d) of this Section, shall include in his or her

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

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

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

23 (1) Expungement of Arrest Records of Minor Cannabis
24 Offenses.

25 (A) The Department of State Police and all law
26 enforcement agencies within the State shall

1 automatically expunge all criminal history records of
2 an arrest, charge not initiated by arrest, order of
3 supervision, or order of qualified probation for a
4 Minor Cannabis Offense committed prior to June 25, 2019
5 (the effective date of Public Act 101-27) ~~this~~
6 ~~amendatory Act of the 101st General Assembly~~ if:

7 (i) One year or more has elapsed since the date
8 of the arrest or law enforcement interaction
9 documented in the records; and

10 (ii) No criminal charges were filed relating
11 to the arrest or law enforcement interaction or
12 criminal charges were filed and subsequently
13 dismissed or vacated or the arrestee was
14 acquitted.

15 (B) If the law enforcement agency is unable to
16 verify satisfaction of condition (ii) in paragraph
17 (A), records that satisfy condition (i) in paragraph
18 (A) shall be automatically expunged.

19 (C) Records shall be expunged pursuant to the
20 procedures set forth in subdivision (d)(9)(A) under
21 the following timelines:

22 (i) Records created prior to June 25, 2019 (the
23 effective date of Public Act 101-27) ~~this~~
24 ~~amendatory Act of the 101st General Assembly~~, but
25 on or after January 1, 2013, shall be automatically
26 expunged prior to January 1, 2021;

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

4 (iii) Records created prior to January 1, 2000
5 shall be automatically expunged prior to January
6 1, 2025.

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

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

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

21 (i) one or more convictions for a Minor
22 Cannabis Offense;

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

26 (iii) the conviction identified in paragraph

1 (2) (A) (i) is not associated with an arrest,
2 conviction or other disposition for a violent
3 crime as defined in subsection (c) of Section 3 of
4 the Rights of Crime Victims and Witnesses Act.

5 (B) Within 180 days after June 25, 2019 (the
6 effective date of Public Act 101-27) ~~this amendatory~~
7 ~~Act of the 101st General Assembly~~, the Department of
8 State Police shall notify the Prisoner Review Board of
9 all such records that meet the criteria established in
10 paragraph (2) (A).

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

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

1 objection.

2 (iii) The Prisoner Review Board shall make a
3 confidential and privileged recommendation to the
4 Governor as to whether to grant a pardon
5 authorizing expungement for each of the records
6 identified by the Department of State Police as
7 described in paragraph (2) (A).

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

1 requested to be kept by the circuit court clerk under
2 Section 16 of the Clerks of Courts Act in connection
3 with the arrest and conviction for the offense for
4 which the individual had received a pardon but the
5 order shall not affect any index issued by the circuit
6 court clerk before the entry of the order. Upon entry
7 of the order of expungement, the circuit court clerk
8 shall promptly provide a copy of the order to the
9 individual who was pardoned to the individual's last
10 known address or otherwise make available to the
11 individual upon request.

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

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

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

15 (4) Any State's Attorney may file a motion to vacate
16 and expunge a conviction for a misdemeanor or Class 4
17 felony violation of Section 4 or Section 5 of the Cannabis
18 Control Act. Motions to vacate and expunge under this
19 subsection (i) may be filed with the circuit court, Chief
20 Judge of a judicial circuit or any judge of the circuit
21 designated by the Chief Judge, and may include more than
22 one individual. When considering such a motion to vacate
23 and expunge, a court shall consider the following: the
24 reasons to retain the records provided by law enforcement,
25 the individual's age, the individual's age at the time of
26 offense, the time since the conviction, and the specific

1 adverse consequences if denied. If the State's Attorney
2 files a motion to vacate and expunge records for Minor
3 Cannabis Offenses pursuant to this Section, the State's
4 Attorney shall notify the Prisoner Review Board within 30
5 days of such filing. If a motion to vacate and expunge is
6 granted, the records shall be expunged in accordance with
7 subparagraph (d) (9) (A) of this Section.

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

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

1 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 (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; revised 9-25-19.)