

SB3476



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3476

Introduced 2/14/2020, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act concerning expungement. Provides for automatic expungement of law enforcement records, criminal history records, and court records of all persons whose arrest or charge not initiated by arrest resulted in release without charging or in acquittal, dismissal, or conviction when the conviction was reversed or vacated. Provides exceptions. Effective immediately.

LRB101 19273 RLC 68739 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) County fee waiver pilot program. From August 9,
23 2019 (the effective date of Public Act 101-306) through
24 December 31, 2020, in a county of 3,000,000 or more
25 inhabitants, no fee shall be required to be paid by a
26 petitioner if the records sought to be expunged or sealed

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

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

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

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

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

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

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

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

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

19 (5) Objections.

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

1 objection to the petition may not be filed.

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

5 (6) Entry of order.

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

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

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

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

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

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

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

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

1 and employment history;

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

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

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

16 (9) Implementation of order.

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

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

26 (ii) the records of the circuit court clerk

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 proceedings for which those records have been sealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (g) Immediate Sealing.

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

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

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

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

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

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

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

26 (B) Contents of Petition. The immediate sealing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (h) Sealing; trafficking victims.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (j) Commencing 180 days after the effective date this
16 amendatory act of the 101st General Assembly, the law
17 enforcement agency that arrested or otherwise initiated
18 charges against any person eligible for automatic expungement
19 under this section shall automatically expunge, on or before
20 January 1 and July 1 of each year, the law enforcement records
21 of all persons whose arrest or charge not initiated by arrest
22 resulted in release without charging or in acquittal,
23 dismissal, or conviction when the conviction was reversed or
24 vacated, if the case has been fully disposed of, unless
25 excluded by subsection (a)(3)(B), or unless the arrest or
26 charge not initiated by arrest was for an offense listed in

1 subsection (a) (3) (C) or contained in Sections 12-3.3, 12-3.5,
2 12-3.6, 12-3.8, 12-3.9, 12-21.6-5 of the Criminal Code of 1961
3 or the Criminal Code of 2012, in the law enforcement agency's
4 possession or control and which contains the final satisfactory
5 disposition which pertain to those persons. The law enforcement
6 agency shall provide by rule the process for access, review,
7 and to confirm the automatic expungement by the law enforcement
8 agency that made the arrests or otherwise issued charges not
9 initiated by arrest. Commencing 180 days after this amendatory
10 act of the 101st General Assembly, the clerk of the circuit
11 court shall expunge, upon order of the court, or in the absence
12 of a court order on or before January 1 and July 1 of each year,
13 the court records of each person found in the circuit court to
14 have an arrest resulting in release without charging or arrests
15 or charges not initiated by arrest resulting in acquittal,
16 dismissal, or conviction when the conviction was reversed or
17 vacated, if the case has been fully disposed of, unless
18 excluded by subsection (a) (3) (B) or unless the arrest or charge
19 not initiated by arrest was for an offense listed in subsection
20 (a) (3) (C) or contained in Section 12-3.3, 12-3.5, 12-3.6,
21 12-3.8, 12-3.9, or 12-21.6-5 of the Criminal Code of 1961 or
22 the Criminal Code of 2012, in the clerk's possession or control
23 and which contains the final satisfactory disposition which
24 pertain to those persons.

25 (k) Expungement of arrest records for arrests resulting in
26 release without charging or arrests or charges not initiated by

1 arrest resulting in acquittal, dismissal, or conviction when
2 the conviction was reversed or vacated, if the case has been
3 fully disposed of, unless excluded by subsection (a)(3)(B) or
4 unless the arrest or charge not initiated by arrest was for an
5 offense listed in subsection (a)(3)(C) or contained in Sections
6 12-3.3, 12-3.5, 12-3.6, 12-3.8, 12-3.9, 12-21.6-5 of the
7 Criminal Code of 1961 or the Criminal Code of 2012.

8 (A) The Illinois State Police and all law enforcement
9 agencies within the State shall automatically expunge all
10 criminal history records of an arrest or charge not
11 initiated by arrest prior to the effective date of this
12 amendatory Act of the 101st General Assembly if such
13 records were for arrests resulting in release without
14 charging or arrests or charges not initiated by arrest
15 resulting in acquittal, dismissal, or conviction when the
16 conviction was reversed or vacated, if the case has been
17 fully disposed of, unless excluded by subsection (a)(3)(B)
18 or unless the arrest or charge not initiated by arrest was
19 for an offense listed in subsection (a)(3)(C) or contained
20 in Section 12-3.3, 12-3.5, 12-3.6, 12-3.8, 12-3.9, or
21 12-21.6-5 of the Criminal Code of 1961 or the Criminal Code
22 of 2012.

23 (B) Records shall be expunged pursuant to the
24 procedures set forth in subdivision (d)(9)(A) under the
25 following timelines:

26 (i) Records created prior to the effective date of

1 this amendatory Act of the 101st General Assembly, but
2 on or after January 1, 2013, shall be automatically
3 expunged prior to January 1, 2021;

4 (ii) Records created prior to January 1, 2013, but
5 on or after January 1, 2000, shall be automatically
6 expunged prior to January 1, 2022;

7 (iii) Records created prior to January 1, 2000
8 shall be automatically expunged prior to January 1,
9 2023.

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

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.