

# HB3258



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3258

Introduced 2/19/2021, by Rep. Justin Slaughter

### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that records included in a petition to expunge or seal that was previously denied are eligible to be expunged or sealed.

LRB102 14625 RLC 19978 b

A BILL FOR

1 AN ACT concerning State government.

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

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (C) "Conviction" means a judgment of conviction or  
13 sentence entered upon a plea of guilty or upon a  
14 verdict or finding of guilty of an offense, rendered  
15 by a legally constituted jury or by a court of  
16 competent jurisdiction authorized to try the case  
17 without a jury. An order of supervision successfully  
18 completed by the petitioner is not a conviction. An  
19 order of qualified probation (as defined in subsection  
20 (a) (1) (J)) successfully completed by the petitioner is  
21 not a conviction. An order of supervision or an order  
22 of 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  
2 considered the "last sentence" regardless of whether  
3 they were 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  
20 was charged or for which the petitioner was arrested  
21 and released without charging.

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

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

1 Act, Section 410 of the Illinois Controlled Substances  
2 Act, 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  
24 court clerk under Section 16 of the Clerks of Courts  
25 Act, but any index issued by the circuit court clerk  
26 before the entry of the order to seal shall not be

1 affected.

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

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

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

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

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

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

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



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

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

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

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

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

1 (iii) Sections 12-3.1 or 12-3.2 of the  
2 Criminal Code of 1961 or the Criminal Code of  
3 2012, or Section 125 of the Stalking No Contact  
4 Order Act, or Section 219 of the Civil No Contact  
5 Order Act, or a similar provision of a local  
6 ordinance;

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

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

12 (D) (blank).

13 (b) Expungement.

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

1           (1.5) When a petitioner seeks to have a record of  
2           arrest expunged under this Section, and the offender has  
3           been convicted of a criminal offense, the State's Attorney  
4           may object to the expungement on the grounds that the  
5           records contain specific relevant information aside from  
6           the mere fact of the arrest.

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

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

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

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

1 the supervision.

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

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

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

24 (D) Records included in a petition to expunge that  
25 was previously denied are eligible to be expunged  
26 under paragraphs (A) through (C) of this subsection.

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

5           (4) Whenever a person has been arrested for or  
6 convicted of any offense, in the name of a person whose  
7 identity he or she has stolen or otherwise come into  
8 possession of, the aggrieved person from whom the identity  
9 was stolen or otherwise obtained without authorization,  
10 upon learning of the person having been arrested using his  
11 or her identity, may, upon verified petition to the chief  
12 judge of the circuit wherein the arrest was made, have a  
13 court order entered nunc pro tunc by the Chief Judge to  
14 correct the arrest record, conviction record, if any, and  
15 all official records of the arresting authority, the  
16 Department, other criminal justice agencies, the  
17 prosecutor, and the trial court concerning such arrest, if  
18 any, by removing his or her name from all such records in  
19 connection with the arrest and conviction, if any, and by  
20 inserting in the records the name of the offender, if  
21 known or ascertainable, in lieu of the aggrieved's name.  
22 The records of the circuit court clerk shall be sealed  
23 until further order of the court upon good cause shown and  
24 the name of the aggrieved person obliterated on the  
25 official index required to be kept by the circuit court  
26 clerk under Section 16 of the Clerks of Courts Act, but the

1 order shall not affect any index issued by the circuit  
2 court clerk before the entry of the order. Nothing in this  
3 Section shall limit the Department of State Police or  
4 other criminal justice agencies or prosecutors from  
5 listing under an offender's name the false names he or she  
6 has used.

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

23 (6) If a conviction has been set aside on direct  
24 review or on collateral attack and the court determines by  
25 clear and convincing evidence that the petitioner was  
26 factually innocent of the charge, the court that finds the

1 petitioner factually innocent of the charge shall enter an  
2 expungement order for the conviction for which the  
3 petitioner has been determined to be innocent as provided  
4 in subsection (b) of Section 5-5-4 of the Unified Code of  
5 Corrections.

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

20 (8) If the petitioner has been granted a certificate  
21 of innocence under Section 2-702 of the Code of Civil  
22 Procedure, the court that grants the certificate of  
23 innocence shall also enter an order expunging the  
24 conviction for which the petitioner has been determined to  
25 be innocent as provided in subsection (h) of Section 2-702  
26 of the Code of Civil Procedure.

1 (c) Sealing.

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

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

10 (A) All arrests resulting in release without  
11 charging;

12 (B) Arrests or charges not initiated by arrest  
13 resulting in acquittal, dismissal, or conviction when  
14 the conviction was reversed or vacated, except as  
15 excluded by subsection (a) (3) (B);

16 (C) Arrests or charges not initiated by arrest  
17 resulting in orders of supervision, including orders  
18 of supervision for municipal ordinance violations,  
19 successfully completed by the petitioner, unless  
20 excluded by subsection (a) (3);

21 (D) Arrests or charges not initiated by arrest  
22 resulting in convictions, including convictions on  
23 municipal ordinance violations, unless excluded by  
24 subsection (a) (3);

25 (E) Arrests or charges not initiated by arrest  
26 resulting in orders of first offender probation under



1 Section 10 of the Cannabis Control Act, Section 410 of  
2 the Illinois Controlled Substances Act, Section 70 of  
3 the Methamphetamine Control and Community Protection  
4 Act, or Section 5-6-3.3 of the Unified Code of  
5 Corrections; and

6 (F) Arrests or charges not initiated by arrest  
7 resulting in felony convictions unless otherwise  
8 excluded by subsection (a) paragraph (3) of this  
9 Section.

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

13 (A) Records identified as eligible under  
14 subsection (c)(2)(A) and (c)(2)(B) may be sealed at  
15 any time.

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

21 (C) Except as otherwise provided in subparagraph  
22 (E) of this paragraph (3), records identified as  
23 eligible under subsections (c)(2)(D), (c)(2)(E), and  
24 (c)(2)(F) may be sealed 3 years after the termination  
25 of the petitioner's last sentence (as defined in  
26 subsection (a)(1)(F)). Convictions requiring public

1 registration under the Arsonist Registration Act, the  
2 Sex Offender Registration Act, or the Murderer and  
3 Violent Offender Against Youth Registration Act may  
4 not be sealed until the petitioner is no longer  
5 required to register under that relevant Act.

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

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

26 (F) Records included in a petition to seal that

1           was previously denied are eligible to be sealed under  
2           paragraphs (A) through (E) of this subsection.

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

11          (5) Notice of eligibility for sealing. Upon entry of a  
12          disposition for an eligible record under this subsection  
13          (c), the petitioner shall be informed by the court of the  
14          right to have the records sealed and the procedures for  
15          the sealing of the records.

16          (d) Procedure. The following procedures apply to  
17          expungement under subsections (b), (e), and (e-6) and sealing  
18          under subsections (c) and (e-5):

19               (1) Filing the petition. Upon becoming eligible to  
20               petition for the expungement or sealing of records under  
21               this Section, the petitioner shall file a petition  
22               requesting the expungement or sealing of records with the  
23               clerk of the court where the arrests occurred or the  
24               charges were brought, or both. If arrests occurred or  
25               charges were brought in multiple jurisdictions, a petition  
26               must be filed in each such jurisdiction. The petitioner

1 shall pay the applicable fee, except no fee shall be  
2 required if the petitioner has obtained a court order  
3 waiving fees under Supreme Court Rule 298 or it is  
4 otherwise waived.

5 (1.5) County fee waiver pilot program. From August 9,  
6 2019 (the effective date of Public Act 101-306) through  
7 December 31, 2020, in a county of 3,000,000 or more  
8 inhabitants, no fee shall be required to be paid by a  
9 petitioner if the records sought to be expunged or sealed  
10 were arrests resulting in release without charging or  
11 arrests or charges not initiated by arrest resulting in  
12 acquittal, dismissal, or conviction when the conviction  
13 was reversed or vacated, unless excluded by subsection  
14 (a) (3) (B). The provisions of this paragraph (1.5), other  
15 than this sentence, are inoperative on and after January  
16 1, 2022.

17 (2) Contents of petition. The petition shall be  
18 verified and shall contain the petitioner's name, date of  
19 birth, current address and, for each arrest or charge not  
20 initiated by arrest sought to be sealed or expunged, the  
21 case number, the date of arrest (if any), the identity of  
22 the arresting authority, and such other information as the  
23 court may require. During the pendency of the proceeding,  
24 the petitioner shall promptly notify the circuit court  
25 clerk of any change of his or her address. If the  
26 petitioner has received a certificate of eligibility for

1 sealing from the Prisoner Review Board under paragraph  
2 (10) of subsection (a) of Section 3-3-2 of the Unified  
3 Code of Corrections, the certificate shall be attached to  
4 the petition.

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

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

14 (B) seal felony records for a violation of the  
15 Illinois Controlled Substances Act, the  
16 Methamphetamine Control and Community Protection Act,  
17 or the Cannabis Control Act under clause (c) (2) (F);

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

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

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

1 of the unit of local government effecting the arrest.

2 (5) Objections.

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

11 (B) Objections to a petition to expunge or seal  
12 must be filed within 60 days of the date of service of  
13 the petition.

14 (6) Entry of order.

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

22 (B) Unless the State's Attorney or prosecutor, the  
23 Department of State Police, the arresting agency, or  
24 the chief legal officer files an objection to the  
25 petition to expunge or seal within 60 days from the  
26 date of service of the petition, the court shall enter

1 an order granting or denying the petition.

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

19 (7) Hearings. If an objection is filed, the court  
20 shall set a date for a hearing and notify the petitioner  
21 and all parties entitled to notice of the petition of the  
22 hearing date at least 30 days prior to the hearing. Prior  
23 to the hearing, the State's Attorney shall consult with  
24 the Department as to the appropriateness of the relief  
25 sought in the petition to expunge or seal. At the hearing,  
26 the court shall hear evidence on whether the petition

1 should or should not be granted, and shall grant or deny  
2 the petition to expunge or seal the records based on the  
3 evidence presented at the hearing. The court may consider  
4 the following:

5 (A) the strength of the evidence supporting the  
6 defendant's conviction;

7 (B) the reasons for retention of the conviction  
8 records by the State;

9 (C) the petitioner's age, criminal record history,  
10 and employment history;

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

14 (E) the specific adverse consequences the  
15 petitioner may be subject to if the petition is  
16 denied.

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

26 (9) Implementation of order.



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

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

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

19 (iii) in response to an inquiry for expunged  
20 records, the court, the Department, or the agency  
21 receiving such inquiry, shall reply as it does in  
22 response to inquiries when no records ever  
23 existed.

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

26 (i) the records shall be expunged (as defined

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

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

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

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

1 Department of Corrections upon conviction for any  
2 offense; and

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

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

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

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

26 (iii) the records shall be impounded by the

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

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

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

20 (C) Upon entry of an order to seal records under  
21 subsection (c), the arresting agency, any other agency  
22 as ordered by the court, the Department, and the court  
23 shall seal the records (as defined in subsection  
24 (a)(1)(K)). In response to an inquiry for such  
25 records, from anyone not authorized by law to access  
26 such 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 existed.

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

19 (E) Upon motion, the court may order that a sealed  
20 judgment or other court record necessary to  
21 demonstrate the amount of any legal financial  
22 obligation due and owing be made available for the  
23 limited purpose of collecting any legal financial  
24 obligations owed by the petitioner that were  
25 established, imposed, or originated in the criminal  
26 proceeding for which those records have been sealed.

1           The records made available under this subparagraph (E)  
2           shall not be entered into the official index required  
3           to be kept by the circuit court clerk under Section 16  
4           of the Clerks of Courts Act and shall be immediately  
5           re-impounded upon the collection of the outstanding  
6           financial obligations.

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

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

1 State Police portion of the fee to the Department and it  
2 shall be deposited in the State Police Services Fund. If  
3 the record brought under an expungement petition was  
4 previously sealed under this Section, the fee for the  
5 expungement petition for that same record shall be waived.

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

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

23 (13) Effect of Order. An order granting a petition  
24 under the expungement or sealing provisions of this  
25 Section shall not be considered void because it fails to  
26 comply with the provisions of this Section or because of

1 any error asserted in a motion to vacate, modify, or  
2 reconsider. The circuit court retains jurisdiction to  
3 determine whether the order is voidable and to vacate,  
4 modify, or reconsider its terms based on a motion filed  
5 under paragraph (12) of this subsection (d).

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

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

24 (16) The changes to this subsection (d) made by Public  
25 Act 98-163 apply to all petitions pending on August 5,  
26 2013 (the effective date of Public Act 98-163) and to all



1 orders ruling on a petition to expunge or seal on or after  
2 August 5, 2013 (the effective date of Public Act 98-163).

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

1 Department pertaining to that individual. Upon entry of the  
2 order of expungement, the circuit court clerk shall promptly  
3 mail a copy of the order to the person who was pardoned.

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

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

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

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

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

24 (g) Immediate Sealing.

25 (1) Applicability. Notwithstanding any other provision  
26 of this Act to the contrary, and cumulative with any

1 rights to expungement or sealing of criminal records, this  
2 subsection authorizes the immediate sealing of criminal  
3 records of adults and of minors prosecuted as adults.

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

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

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

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

25 (A) Filing the Petition. Upon entry of the final  
26 disposition of the case, the defendant's attorney may

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

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

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

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

26 (E) Entry of Order. The presiding trial judge

1 shall enter an order granting or denying the petition  
2 for immediate sealing during the hearing in which it  
3 is filed. Petitions for immediate sealing shall be  
4 ruled on in the same hearing in which the final  
5 disposition of the case is entered.

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

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

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

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

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

23 (K) Motion to Vacate, Modify, or Reconsider. Under  
24 Section 2-1203 of the Code of Civil Procedure, the  
25 petitioner, State's Attorney, or the Department of  
26 State Police may file a motion to vacate, modify, or

1 reconsider the order denying the petition to  
2 immediately seal within 60 days of service of the  
3 order. If filed more than 60 days after service of the  
4 order, a petition to vacate, modify, or reconsider  
5 shall comply with subsection (c) of Section 2-1401 of  
6 the Code of Civil Procedure.

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

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

22 (h) Sealing; trafficking victims.

23 (1) A trafficking victim as defined by paragraph (10)  
24 of subsection (a) of Section 10-9 of the Criminal Code of  
25 2012 shall be eligible to petition for immediate sealing  
26 of his or her criminal record upon the completion of his or



1 her last sentence if his or her participation in the  
2 underlying offense was a direct result of human  
3 trafficking under Section 10-9 of the Criminal Code of  
4 2012 or a severe form of trafficking under the federal  
5 Trafficking Victims Protection Act.

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

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

1 human trafficking under Section 10-9 of the Criminal Code  
2 of 2012 or a severe form of trafficking under the federal  
3 Trafficking Victims Protection Act.

4 (i) Minor Cannabis Offenses under the Cannabis Control  
5 Act.

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

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

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

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

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

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

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

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

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

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

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

26 (2) Pardons Authorizing Expungement of Minor Cannabis

1 Offenses.

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

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

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

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

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

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

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

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

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

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

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

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

1 available to the individual.

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

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

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



1 Attorney shall notify the Prisoner Review Board within 30  
2 days. Upon entry of the order of expungement, the circuit  
3 court clerk shall promptly provide a copy of the order and  
4 a certificate of disposition to the individual whose  
5 records will be expunged to the individual's last known  
6 address or by electronic means (if available) or otherwise  
7 make available to the individual upon request. If a motion  
8 to vacate and expunge is granted, the records shall be  
9 expunged in accordance with subparagraphs (d)(8) and  
10 (d)(9)(A) of this Section.

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

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

1 the case is pending at the time; and (C) the person has not  
2 been sentenced of the minor cannabis violation eligible  
3 for expungement under this subsection, the court shall  
4 consider the following: the reasons to retain the records  
5 provided by law enforcement, the petitioner's age, the  
6 petitioner's age at the time of offense, the time since  
7 the conviction, and the specific adverse consequences if  
8 denied. If a motion to dismiss and expunge is granted, the  
9 records shall be expunged in accordance with subparagraph  
10 (d) (9) (A) of this Section.

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

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

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

24 (10) Effect of Expungement. A person's right to  
25 expunge an expungeable offense shall not be limited under  
26 this Section. The effect of an order of expungement shall

1 be to restore the person to the status he or she occupied  
2 before the arrest, charge, or conviction.

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

6 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;  
7 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.  
8 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,  
9 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;  
10 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.  
11 12-4-19; 101-645, eff. 6-26-20; revised 8-18-20.)