



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3934

Introduced 2/22/2021, by Rep. Tony McCombie

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2  
20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that the court may not order the sealing or expungement of the records of arrests or charges not initiated by arrest that result in an order of supervision for or conviction of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof (DUI) under the Illinois Vehicle Code or a similar provision of a local ordinance; except that the court may order the sealing of one misdemeanor record of arrest or charge not initiated by arrest that results in an order of supervision for or conviction of DUI under the Illinois Vehicle Code or a similar provision of a local ordinance per petitioner if each of the following conditions have been met: (1) the petitioner has not previously been convicted of or placed on supervision for DUI under the Illinois Vehicle Code or a similar provision of a local ordinance; (2) 10 or more years have passed since the termination of the petitioner's sentence; (3) during the commission of the violation, the petitioner did not proximately cause death or personal injury to any other person or damage the property of any other person; (4) the petitioner has no other misdemeanor or felony driving charge on his or her driving abstract; and (5) the judge examined the driving abstract of the petitioner petitioning to have his or her records sealed under this provision and made a finding entered on the record that the petitioner did not enter into a plea agreement on a lesser charge other than a DUI under the Illinois Vehicle Code or a similar provision of a local ordinance, and the facts did not support that the petitioner had previously committed a DUI under the Illinois Vehicle Code or a similar provision of a local ordinance. Provides that the Secretary of State shall maintain orders of court supervision and convictions for DUI under the Illinois vehicle Code or a similar provision of a local ordinance on court purposes driving abstracts.

LRB102 17064 RLC 22492 b

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 ~~(blank) Section 11-501 of the Illinois Vehicle Code or~~  
24 ~~a 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 (E) the sealing or expungement of records of  
14 arrests or charges not initiated by arrest that result  
15 in an order of supervision for or conviction of  
16 Section 11-501 of the Illinois Vehicle Code or a  
17 similar provision of a local ordinance; except that  
18 the court may order the sealing of one misdemeanor  
19 record of arrest or charge not initiated by arrest  
20 that results in an order of supervision for or  
21 conviction of Section 11-501 of the Illinois Vehicle  
22 Code or a similar provision of a local ordinance per  
23 petitioner if each of the following conditions have  
24 been met: (i) the petitioner has not previously been  
25 convicted of or placed on supervision for a violation  
26 of Section 11-501 of the Illinois Vehicle Code or a

1 similar provision of a local ordinance; (ii) 10 or  
2 more years have passed since the termination of the  
3 petitioner's sentence; (iii) during the commission of  
4 the violation, the petitioner did not proximately  
5 cause death or personal injury to any other person or  
6 damage the property of any other person; (iv) the  
7 petitioner has no other misdemeanor or felony driving  
8 charge on his or her driving abstract; and (v) the  
9 judge examined the driving abstract of the petitioner  
10 petitioning to have his or her record sealed under  
11 this subparagraph (E) and made a finding entered on  
12 the record that the petitioner did not enter into a  
13 plea agreement on a lesser charge other than a  
14 violation of Section 11-501 of the Illinois Vehicle  
15 Code or a similar provision of a local ordinance, and  
16 the facts did not support that the petitioner had  
17 previously committed a violation of Section 11-501 of  
18 the Illinois Vehicle Code or a similar provision of a  
19 local ordinance. A felony conviction of Section 11-501  
20 of the Illinois Vehicle Code or a similar provision of  
21 a local ordinance may not be sealed or expunged under  
22 this subparagraph (E). Notwithstanding any provision  
23 of this Act to the contrary, the Secretary of State  
24 shall maintain orders of court supervision and  
25 convictions of Section 11-501 of the Illinois Vehicle  
26 Code or a similar provision of a local ordinance on

1           court purposes driving abstracts.

2           (b) Expungement.

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

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

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

23           (A) When the arrest or charge not initiated by  
24 arrest sought to be expunged resulted in an acquittal,  
25 dismissal, the petitioner's release without charging,  
26 or the reversal or vacation of a conviction, there is

1 no waiting period to petition for the expungement of  
2 such records.

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

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

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

1           petitioner has reached the age of 25 years.

2                   (ii) Those arrests or charges that resulted in  
3           orders of supervision for any other offenses shall  
4           not be eligible for expungement until 2 years have  
5           passed following the satisfactory termination of  
6           the supervision.

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

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

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

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

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

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

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

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



1 of Section 12-3.05 of the Criminal Code of 1961 or the  
2 Criminal Code of 2012, Section 10-102 of the Illinois  
3 Alcoholism and Other Drug Dependency Act, Section 40-10 of  
4 the Substance Use Disorder Act, or Section 10 of the  
5 Steroid Control Act.

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

13 (c) Sealing.

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

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

22 (A) All arrests resulting in release without  
23 charging;

24 (B) Arrests or charges not initiated by arrest  
25 resulting in acquittal, dismissal, or conviction when  
26 the conviction was reversed or vacated, except as

1 excluded by subsection (a) (3) (B);

2 (C) Arrests or charges not initiated by arrest  
3 resulting in orders of supervision, including orders  
4 of supervision for municipal ordinance violations,  
5 successfully completed by the petitioner, unless  
6 excluded by subsection (a) (3);

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

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

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

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

25 (A) Records identified as eligible under  
26 subsection (c) (2) (A) and (c) (2) (B) may be sealed at

1 any time.

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

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

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

21 (E) Records identified as eligible under  
22 subsections (c)(2)(C), (c)(2)(D), (c)(2)(E), or  
23 (c)(2)(F) may be sealed upon termination of the  
24 petitioner's last sentence if the petitioner earned a  
25 high school diploma, associate's degree, career  
26 certificate, vocational technical certification, or

1 bachelor's degree, or passed the high school level  
2 Test of General Educational Development, during the  
3 period of his or her sentence or mandatory supervised  
4 release. This subparagraph shall apply only to a  
5 petitioner who has not completed the same educational  
6 goal prior to the period of his or her sentence or  
7 mandatory supervised release. If a petition for  
8 sealing eligible records filed under this subparagraph  
9 is denied by the court, the time periods under  
10 subparagraph (B) or (C) shall apply to any subsequent  
11 petition for sealing filed by the petitioner.

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

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

25 (d) Procedure. The following procedures apply to  
26 expungement under subsections (b), (e), and (e-6) and sealing

1 under subsections (c) and (e-5):

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

14 (1.5) County fee waiver pilot program. From August 9,  
15 2019 (the effective date of Public Act 101-306) through  
16 December 31, 2020, in a county of 3,000,000 or more  
17 inhabitants, no fee shall be required to be paid by a  
18 petitioner if the records sought to be expunged or sealed  
19 were arrests resulting in release without charging or  
20 arrests or charges not initiated by arrest resulting in  
21 acquittal, dismissal, or conviction when the conviction  
22 was reversed or vacated, unless excluded by subsection  
23 (a)(3)(B). The provisions of this paragraph (1.5), other  
24 than this sentence, are inoperative on and after January  
25 1, 2022.

26 (2) Contents of petition. The petition shall be

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

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

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

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

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

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

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

11 (5) Objections.

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

20 (B) Objections to a petition to expunge or seal  
21 must be filed within 60 days of the date of service of  
22 the petition.

23 (6) Entry of order.

24 (A) The Chief Judge of the circuit wherein the  
25 charge was brought, any judge of that circuit  
26 designated by the Chief Judge, or in counties of less

1 than 3,000,000 inhabitants, the presiding trial judge  
2 at the petitioner's trial, if any, shall rule on the  
3 petition to expunge or seal as set forth in this  
4 subsection (d) (6).

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

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



1 applicable federal, State, or local law.

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

14 (A) the strength of the evidence supporting the  
15 defendant's conviction;

16 (B) the reasons for retention of the conviction  
17 records by the State;

18 (C) the petitioner's age, criminal record history,  
19 and employment history;

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

23 (E) the specific adverse consequences the  
24 petitioner may be subject to if the petition is  
25 denied.

26 (8) Service of order. After entering an order to

1 expunge or seal records, the court must provide copies of  
2 the order to the Department, in a form and manner  
3 prescribed by the Department, to the petitioner, to the  
4 State's Attorney or prosecutor charged with the duty of  
5 prosecuting the offense, to the arresting agency, to the  
6 chief legal officer of the unit of local government  
7 effecting the arrest, and to such other criminal justice  
8 agencies as may be ordered by the court.

9 (9) Implementation of order.

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

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

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

1 and

2 (iii) in response to an inquiry for expunged  
3 records, the court, the Department, or the agency  
4 receiving such inquiry, shall reply as it does in  
5 response to inquiries when no records ever  
6 existed.

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

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

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

24 (iii) the records shall be impounded by the  
25 Department within 60 days of the date of service  
26 of the order as ordered by the court, unless a

1 motion to vacate, modify, or reconsider the order  
2 is filed pursuant to paragraph (12) of subsection  
3 (d) of this Section;

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

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

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

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

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

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

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

23           (v) in response to an inquiry for these  
24 records from anyone not authorized by law to  
25 access the records, the court, the Department, or  
26 the agency receiving the inquiry shall reply as it

1 does in response to inquiries when no records ever  
2 existed.

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

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

1 pending.

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

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

22 (10) Fees. The Department may charge the petitioner a  
23 fee equivalent to the cost of processing any order to  
24 expunge or seal records. Notwithstanding any provision of  
25 the Clerks of Courts Act to the contrary, the circuit  
26 court clerk may charge a fee equivalent to the cost

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

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

20 (12) Motion to Vacate, Modify, or Reconsider. Under  
21 Section 2-1203 of the Code of Civil Procedure, the  
22 petitioner or any party entitled to notice may file a  
23 motion to vacate, modify, or reconsider the order granting  
24 or denying the petition to expunge or seal within 60 days  
25 of service of the order. If filed more than 60 days after  
26 service of the order, a petition to vacate, modify, or



1 reconsider shall comply with subsection (c) of Section  
2 2-1401 of the Code of Civil Procedure. Upon filing of a  
3 motion to vacate, modify, or reconsider, notice of the  
4 motion shall be served upon the petitioner and all parties  
5 entitled to notice of the petition.

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

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

23 (15) Compliance with Order Granting Petition to  
24 Expunge Records. While a party is seeking relief from the  
25 order granting the petition to expunge through a motion  
26 filed under paragraph (12) of this subsection (d) or is

1           appealing the order, and unless a court has entered a stay  
2           of that order, the parties entitled to notice of the  
3           petition must seal, but need not expunge, the records  
4           until there is a final order on the motion for relief or,  
5           in the case of an appeal, the issuance of that court's  
6           mandate.

7           (16) The changes to this subsection (d) made by Public  
8           Act 98-163 apply to all petitions pending on August 5,  
9           2013 (the effective date of Public Act 98-163) and to all  
10          orders ruling on a petition to expunge or seal on or after  
11          August 5, 2013 (the effective date of Public Act 98-163).

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

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

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

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

17 (e-6) Whenever a person who has been convicted of an  
18 offense is granted a certificate of eligibility for  
19 expungement by the Prisoner Review Board which specifically  
20 authorizes expungement, he or she may, upon verified petition  
21 to the Chief Judge of the circuit where the person had been  
22 convicted, any judge of the circuit designated by the Chief  
23 Judge, or in counties of less than 3,000,000 inhabitants, the  
24 presiding trial judge at the petitioner's trial, have a court  
25 order entered expunging the record of arrest from the official  
26 records of the arresting authority and order that the records

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

21 (f) Subject to available funding, the Illinois Department  
22 of Corrections shall conduct a study of the impact of sealing,  
23 especially on employment and recidivism rates, utilizing a  
24 random sample of those who apply for the sealing of their  
25 criminal records under Public Act 93-211. At the request of  
26 the Illinois Department of Corrections, records of the

1 Illinois Department of Employment Security shall be utilized  
2 as appropriate to assist in the study. The study shall not  
3 disclose any data in a manner that would allow the  
4 identification of any particular individual or employing unit.  
5 The study shall be made available to the General Assembly no  
6 later than September 1, 2010.

7 (g) Immediate Sealing.

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

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

21 (3) When Records are Eligible to be Immediately  
22 Sealed. Eligible records under paragraph (2) of this  
23 subsection (g) may be sealed immediately after entry of  
24 the final disposition of a case, notwithstanding the  
25 disposition of other charges in the same case.

26 (4) Notice of Eligibility for Immediate Sealing. Upon

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

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

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

21 (B) Contents of Petition. The immediate sealing  
22 petition shall be verified and shall contain the  
23 petitioner's name, date of birth, current address, and  
24 for each eligible record, the case number, the date of  
25 arrest if applicable, the identity of the arresting  
26 authority if applicable, and other information as the

1 court may require.

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

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

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

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

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

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

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



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

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

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

25           (M) Compliance with Order Granting Petition to  
26 Seal Records. Unless a court has entered a stay of an

1 order granting a petition to immediately seal, all  
2 parties entitled to service of the order must fully  
3 comply with the terms of the order within 60 days of  
4 service of the order.

5 (h) Sealing; trafficking victims.

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

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

25 (3) If an objection is filed alleging that the  
26 petitioner is not entitled to immediate sealing under this

1 subsection (h), the court shall conduct a hearing under  
2 paragraph (7) of subsection (d) of this Section and the  
3 court shall determine whether the petitioner is entitled  
4 to immediate sealing under this subsection (h). A  
5 petitioner is eligible for immediate relief under this  
6 subsection (h) if he or she shows, by a preponderance of  
7 the evidence, that: (A) he or she was a victim of human  
8 trafficking at the time of the offense; and (B) that his or  
9 her participation in the offense was a direct result of  
10 human trafficking under Section 10-9 of the Criminal Code  
11 of 2012 or a severe form of trafficking under the federal  
12 Trafficking Victims Protection Act.

13 (i) Minor Cannabis Offenses under the Cannabis Control  
14 Act.

15 (1) Expungement of Arrest Records of Minor Cannabis  
16 Offenses.

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

24 (i) One year or more has elapsed since the  
25 date of the arrest or law enforcement interaction  
26 documented in the records; and

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

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

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

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

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

19               (iii) Records created prior to January 1, 2000  
20               shall be automatically expunged prior to January  
21               1, 2025.

22           In response to an inquiry for expunged records,  
23           the law enforcement agency receiving such inquiry  
24           shall reply as it does in response to inquiries when no  
25           records ever existed; however, it shall provide a  
26           certificate of disposition or confirmation that the

1 record was expunged to the individual whose record was  
2 expunged if such a record exists.

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

9 (2) Pardons Authorizing Expungement of Minor Cannabis  
10 Offenses.

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

16 (i) one or more convictions for a Minor  
17 Cannabis Offense;

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

21 (iii) the conviction identified in paragraph  
22 (2)(A)(i) is not associated with a conviction for  
23 a violent crime as defined in subsection (c) of  
24 Section 3 of the Rights of Crime Victims and  
25 Witnesses Act.

26 (B) Within 180 days after June 25, 2019 (the

1 effective date of Public Act 101-27), the Department  
2 of State Police shall notify the Prisoner Review Board  
3 of all such records that meet the criteria established  
4 in paragraph (2) (A).

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

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

22 (iii) The Prisoner Review Board shall make a  
23 confidential and privileged recommendation to the  
24 Governor as to whether to grant a pardon  
25 authorizing expungement for each of the records  
26 identified by the Department of State Police as

1           described in paragraph (2) (A).

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

1 entry of the order. Upon entry of the order of  
2 expungement, the circuit court clerk shall promptly  
3 provide a copy of the order and a certificate of  
4 disposition to the individual who was pardoned to the  
5 individual's last known address or by electronic means  
6 (if available) or otherwise make it available to the  
7 individual upon request.

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

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



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

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

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

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

24 (6) If a person is arrested for a Minor Cannabis  
25 Offense as defined in this Section before June 25, 2019  
26 (the effective date of Public Act 101-27) and the person's

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

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

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

1 or her records relating to Minor Cannabis Offenses of the  
2 Cannabis Control Act eligible under this Section have been  
3 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  
8 expunge an expungeable offense shall not be limited under  
9 this Section. The effect of an order of expungement shall  
10 be to restore the person to the status he or she occupied  
11 before 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 (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; 101-645, eff. 6-26-20; revised 8-18-20.)