



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4392

Introduced 1/21/2022, by Rep. Carol Ammons - Kambium Buckner - Kelly M. Cassidy - Bob Morgan - Justin Slaughter, et al.

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that notwithstanding a positive test for the presence of cannabis within the petitioner's body from a drug test taken within 30 days before the filing of the petition for expungement or sealing or the failure of the petitioner to take such test, the petitioner may petition for the sealing or expungement of his or her felony records for a violation of the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act or felony records of a qualified probation for a felony drug offense. Defines "cannabis" and "felony drug offense".

LRB102 21280 RLC 30391 b

AN ACT concerning State government.

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

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

(20 ILCS 2630/5.2)

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

(a) General Provisions.

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

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

~~(i)~~ Business Offense, Section 5-1-2. ~~(730 ILCS~~
~~5/5-1-2),~~

~~(ii)~~ Charge, Section 5-1-3. ~~(730 ILCS~~
~~5/5-1-3),~~

~~(iii)~~ Court, Section 5-1-6. ~~(730 ILCS~~
~~5/5-1-6),~~

~~(iv)~~ Defendant, Section 5-1-7. ~~(730 ILCS~~
~~5/5-1-7),~~

1 ~~(v) Felony, Section 5-1-9. (730 ILCS 5/5-1-9),~~
2 ~~(vi) Imprisonment, Section 5-1-10. (730 ILCS~~
3 ~~5/5-1-10),~~
4 ~~(vii) Judgment, Section 5-1-12. (730 ILCS~~
5 ~~5/5-1-12),~~
6 ~~(viii) Misdemeanor, Section 5-1-14. (730 ILCS~~
7 ~~5/5-1-14),~~
8 ~~(ix) Offense, Section 5-1-15. (730 ILCS~~
9 ~~5/5-1-15),~~
10 ~~(x) Parole, Section 5-1-16. (730 ILCS~~
11 ~~5/5-1-16),~~
12 ~~(xi) Petty Offense, Section 5-1-17. (730 ILCS~~
13 ~~5/5-1-17),~~
14 ~~(xii) Probation, Section 5-1-18. (730 ILCS~~
15 ~~5/5-1-18),~~
16 ~~(xiii) Sentence, Section 5-1-19. (730 ILCS~~
17 ~~5/5-1-19),~~
18 ~~(xiv) Supervision, Section 5-1-21. (730 ILCS~~
19 ~~5/5-1-21), and~~
20 ~~(xv) Victim, Section 5-1-22. (730 ILCS~~
21 ~~5/5-1-22).~~

22 (B) As used in this Section, "charge not initiated
23 by arrest" means a charge (as defined by Section 5-1-3
24 of the Unified Code of Corrections ~~730 ILCS 5/5-1-3~~)
25 brought against a defendant where the defendant is not
26 arrested prior to or as a direct result of the charge.

1 (C) "Conviction" means a judgment of conviction or
2 sentence entered upon a plea of guilty or upon a
3 verdict or finding of guilty of an offense, rendered
4 by a legally constituted jury or by a court of
5 competent jurisdiction authorized to try the case
6 without a jury. An order of supervision successfully
7 completed by the petitioner is not a conviction. An
8 order of qualified probation (as defined in subsection
9 (a)(1)(J)) successfully completed by the petitioner is
10 not a conviction. An order of supervision or an order
11 of qualified probation that is terminated
12 unsatisfactorily is a conviction, unless the
13 unsatisfactory termination is reversed, vacated, or
14 modified and the judgment of conviction, if any, is
15 reversed or vacated.

16 (D) "Criminal offense" means a petty offense,
17 business offense, misdemeanor, felony, or municipal
18 ordinance violation (as defined in subsection
19 (a)(1)(H)). As used in this Section, a minor traffic
20 offense (as defined in subsection (a)(1)(G)) shall not
21 be considered a criminal offense.

22 (E) "Expunge" means to physically destroy the
23 records or return them to the petitioner and to
24 obliterate the petitioner's name from any official
25 index or public record, or both. Nothing in this Act
26 shall require the physical destruction of the circuit

1 court file, but such records relating to arrests or
2 charges, or both, ordered expunged shall be impounded
3 as required by subsections (d)(9)(A)(ii) and
4 (d)(9)(B)(ii).

5 (F) As used in this Section, "last sentence" means
6 the sentence, order of supervision, or order of
7 qualified probation (as defined by subsection
8 (a)(1)(J)), for a criminal offense (as defined by
9 subsection (a)(1)(D)) that terminates last in time in
10 any jurisdiction, regardless of whether the petitioner
11 has included the criminal offense for which the
12 sentence or order of supervision or qualified
13 probation was imposed in his or her petition. If
14 multiple sentences, orders of supervision, or orders
15 of qualified probation terminate on the same day and
16 are last in time, they shall be collectively
17 considered the "last sentence" regardless of whether
18 they were ordered to run concurrently.

19 (G) "Minor traffic offense" means a petty offense,
20 business offense, or Class C misdemeanor under the
21 Illinois Vehicle Code or a similar provision of a
22 municipal or local ordinance.

23 (G-5) "Minor Cannabis Offense" means a violation
24 of Section 4 or 5 of the Cannabis Control Act
25 concerning not more than 30 grams of any substance
26 containing cannabis, provided the violation did not

1 include a penalty enhancement under Section 7 of the
2 Cannabis Control Act and is not associated with an
3 arrest, conviction or other disposition for a violent
4 crime as defined in subsection (c) of Section 3 of the
5 Rights of Crime Victims and Witnesses Act.

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

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

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

1 qualified probation under Section 10-102 of the
2 Illinois Alcoholism and Other Drug Dependency Act and
3 Section 40-10 of the Substance Use Disorder Act means
4 that the probation was terminated satisfactorily and
5 the judgment of conviction was vacated.

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

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

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

1 outstanding financial legal obligation.

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

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

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

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

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

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

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

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

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

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

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

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

1 (D) (blank).

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 Illinois State
14 Police Department ~~Department~~ for persons arrested prior to their 17th
15 birthday shall be expunged as provided in Section 5-915 of
16 the Juvenile 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 Illinois State Police Department, other criminal justice
3 agencies, the prosecutor, and the trial court concerning
4 such arrest, if any, by removing his or her name from all
5 such records in connection with the arrest and conviction,
6 if any, and by inserting in the records the name of the
7 offender, if known or ascertainable, in lieu of the
8 aggrieved's name. The records of the circuit court clerk
9 shall be sealed until further order of the court upon good
10 cause shown and the name of the aggrieved person
11 obliterated on the official index required to be kept by
12 the circuit court clerk under Section 16 of the Clerks of
13 Courts Act, but the order shall not affect any index
14 issued by the circuit court clerk before the entry of the
15 order. Nothing in this Section shall limit the Illinois
16 ~~Department of~~ State Police or other criminal justice
17 agencies or prosecutors from listing under an offender's
18 name the false names he or she 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 Illinois ~~Department of~~ State Police concerning the
5 offense shall not be sealed. The court, upon good cause
6 shown, shall make the records of the circuit court clerk
7 in 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 Illinois
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. Except as otherwise provided in
15 paragraph (3.5) of this subsection, the ~~The~~ petitioner
16 must attach to the petition proof that the petitioner has
17 passed a test taken within 30 days before the filing of the
18 petition showing the absence within his or her body of all
19 illegal substances as defined by the Illinois Controlled
20 Substances Act, the Methamphetamine Control and Community
21 Protection Act, and the Cannabis Control Act if he or she
22 is petitioning to:

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

24 (B) seal felony records for a violation of the
25 Illinois Controlled Substances Act, the
26 Methamphetamine Control and Community Protection Act,

1 or the Cannabis Control Act under clause (c) (2) (F);

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

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

5 (3.5) Notwithstanding a positive test for the presence
6 of cannabis within the petitioner's body from a drug test
7 taken within 30 days before the filing of the petition for
8 expungement or sealing or the failure of the petitioner to
9 take such test, the petitioner may petition for the
10 sealing or expungement of his or her felony records for a
11 violation of the Illinois Controlled Substances Act, the
12 Methamphetamine Control and Community Protection Act, or
13 the Cannabis Control Act or felony records of a qualified
14 probation under clause (b) (1) (iv) for a felony drug
15 offense. In this paragraph (3.5):

16 "Cannabis" has the meaning ascribed to it in
17 Section 3 of the Cannabis Control Act.

18 "Felony drug offense" means any felony violation
19 of the Cannabis Control Act, the Illinois Controlled
20 Substances Act, or the Methamphetamine Control and
21 Community Protection Act.

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

1 State Police, the arresting agency and the chief legal
2 officer of the unit of local government effecting the
3 arrest.

4 (5) Objections.

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

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

16 (6) Entry of order.

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

24 (B) Unless the State's Attorney or prosecutor, the
25 Illinois Department of State Police, the arresting
26 agency, or the chief legal officer files an objection

1 to the petition to expunge or seal within 60 days from
2 the date of service of the petition, the court shall
3 enter an order granting or denying the petition.

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

21 (7) Hearings. If an objection is filed, the court
22 shall set a date for a hearing and notify the petitioner
23 and all parties entitled to notice of the petition of the
24 hearing date at least 30 days prior to the hearing. Prior
25 to the hearing, the State's Attorney shall consult with
26 the Illinois State Police ~~Department~~ as to the

1 appropriateness of the relief sought in the petition to
2 expunge or seal. At the hearing, the court shall hear
3 evidence on whether the petition should or should not be
4 granted, and shall grant or deny the petition to expunge
5 or seal the records based on the evidence presented at the
6 hearing. The court may consider the following:

7 (A) the strength of the evidence supporting the
8 defendant's conviction;

9 (B) the reasons for retention of the conviction
10 records by the State;

11 (C) the petitioner's age, criminal record history,
12 and employment history;

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

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

19 (8) Service of order. After entering an order to
20 expunge or seal records, the court must provide copies of
21 the order to the Illinois State Police Department, in a
22 form and manner prescribed by the Illinois State Police
23 ~~Department~~, to the petitioner, to the State's Attorney or
24 prosecutor charged with the duty of prosecuting the
25 offense, to the arresting agency, to the chief legal
26 officer of the unit of local government effecting the

1 arrest, and to such other criminal justice agencies as may
2 be ordered by the court.

3 (9) Implementation of order.

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

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

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

24 (iii) in response to an inquiry for expunged
25 records, the court, the Illinois State Police
26 ~~Department~~, or the agency receiving such inquiry,

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

3 (B) Upon entry of an order to expunge records
4 pursuant to subsection (b) (2) (B) (i) or (b) (2) (C), or
5 both:

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

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

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

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

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

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

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

25 (ii) the records of the circuit court clerk
26 shall be impounded until further order of the

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

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

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

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

1 inquiries when no records ever existed.

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

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

1 or petition for discretionary appellate review, is
2 pending.

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

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

23 (10) Fees. The Illinois State Police Department may
24 charge the petitioner a fee equivalent to the cost of
25 processing any order to expunge or seal records.
26 Notwithstanding any provision of the Clerks of Courts Act

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

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

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

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

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

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

25 (15) Compliance with Order Granting Petition to
26 Expunge Records. While a party is seeking relief from the

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

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

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

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

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

1 circuit court clerk and the Illinois State Police ~~Department~~
2 be sealed until further order of the court upon good cause
3 shown or as otherwise provided herein, and the name of the
4 petitioner obliterated from the official index requested to be
5 kept by the circuit court clerk under Section 16 of the Clerks
6 of 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 Illinois State Police ~~Department~~ may be
11 disseminated by the Illinois State Police ~~Department~~ only as
12 required by this Act or to the arresting authority, a law
13 enforcement agency, the State's Attorney, and the court upon a
14 later arrest for the same or similar offense or for the purpose
15 of sentencing for any subsequent felony. Upon conviction for
16 any subsequent offense, the Department of Corrections shall
17 have access to all sealed records of the Illinois State Police
18 ~~Department~~ pertaining to that individual. Upon entry of the
19 order of sealing, the circuit court clerk shall promptly mail
20 a copy of the order to the person who was granted the
21 certificate of eligibility for sealing.

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

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

1 expungement.

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

14 (g) Immediate Sealing.

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

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

1 disposed.

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

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

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

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

1 at any time as authorized under subsection (c) (3) (A) .

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

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

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

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

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

25 (G) Service of Order. An order to immediately seal
26 eligible records shall be served in conformance with

1 subsection (d) (8) .

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

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

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

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

24 (L) Effect of Order. An order granting an
25 immediate sealing petition shall not be considered
26 void because it fails to comply with the provisions of

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

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

13 (h) Sealing; trafficking victims.

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

23 (2) A petitioner under this subsection (h), in
24 addition to the requirements provided under paragraph (4)
25 of subsection (d) of this Section, shall include in his or
26 her petition a clear and concise statement that: (A) he or

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

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

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

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

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

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

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

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

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

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

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

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

1 (iii) Records created prior to January 1, 2000
2 shall be automatically expunged prior to January
3 1, 2025.

4 In response to an inquiry for expunged records,
5 the law enforcement agency receiving such inquiry
6 shall reply as it does in response to inquiries when no
7 records ever existed; however, it shall provide a
8 certificate of disposition or confirmation that the
9 record was expunged to the individual whose record was
10 expunged if such a record exists.

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

17 (2) Pardons Authorizing Expungement of Minor Cannabis
18 Offenses.

19 (A) Upon June 25, 2019 (the effective date of
20 Public Act 101-27), the Department of State Police
21 shall review all criminal history record information
22 and identify all records that meet all of the
23 following criteria:

24 (i) one or more convictions for a Minor
25 Cannabis Offense;

26 (ii) the conviction identified in paragraph

1 (2) (A) (i) did not include a penalty enhancement
2 under Section 7 of the Cannabis Control Act; and

3 (iii) the conviction identified in paragraph
4 (2) (A) (i) is not associated with a conviction for
5 a violent crime as defined in subsection (c) of
6 Section 3 of the Rights of Crime Victims and
7 Witnesses Act.

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

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

25 (ii) In response to a written objection from a
26 State's Attorney, the Prisoner Review Board is

1 authorized to conduct a non-public hearing to
2 evaluate the information provided in the
3 objection.

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

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

1 court clerk and the Illinois ~~Department of~~ State
2 Police be expunged and the name of the defendant
3 obliterated from the official index requested to be
4 kept by the circuit court clerk under Section 16 of the
5 Clerks of Courts Act in connection with the arrest and
6 conviction for the offense for which the individual
7 had received a pardon but the order shall not affect
8 any index issued by the circuit court clerk before the
9 entry of the order. Upon entry of the order of
10 expungement, the circuit court clerk shall promptly
11 provide a copy of the order and a certificate of
12 disposition to the individual who was pardoned to the
13 individual's last known address or by electronic means
14 (if available) or otherwise make it available to the
15 individual upon request.

16 (D) Nothing in this Section is intended to
17 diminish or abrogate any rights or remedies otherwise
18 available to the individual.

19 (3) Any individual may file a motion to vacate and
20 expunge a conviction for a misdemeanor or Class 4 felony
21 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. The circuit court clerk
26 shall promptly serve a copy of the motion to vacate and

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

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

1 (d) (9) (A) of this Section.

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

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

1 (d) (9) (A) of this Section.

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

6 (8) The Illinois ~~Department of~~ State Police shall
7 allow a person to use the access and review process,
8 established in the Illinois ~~Department of~~ State Police,
9 for verifying that his or her records relating to Minor
10 Cannabis Offenses of the Cannabis Control Act eligible
11 under this Section have been expunged.

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

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

20 (11) Information. The Illinois ~~Department of~~ State
21 Police shall post general information on its website about
22 the expungement process described in this subsection (i).

23 (j) Felony Prostitution Convictions.

24 (1) Any individual may file a motion to vacate and
25 expunge a conviction for a prior Class 4 felony violation
26 of prostitution. Motions to vacate and expunge under this

1 subsection (j) may be filed with the circuit court, Chief
2 Judge of a judicial circuit, or any judge of the circuit
3 designated by the Chief Judge. When considering the motion
4 to vacate and expunge, a court shall consider the
5 following:

6 (A) the reasons to retain the records provided by
7 law enforcement;

8 (B) the petitioner's age;

9 (C) the petitioner's age at the time of offense;
10 and

11 (D) the time since the conviction, and the
12 specific adverse consequences if denied. An individual
13 may file the petition after the completion of any
14 sentence or condition imposed by the conviction.
15 Within 60 days of the filing of the motion, a State's
16 Attorney may file an objection to the petition along
17 with supporting evidence. If a motion to vacate and
18 expunge is granted, the records shall be expunged in
19 accordance with subparagraph (d)(9)(A) of this
20 Section. An agency providing civil legal aid, as
21 defined in Section 15 of the Public Interest Attorney
22 Assistance Act, assisting individuals seeking to file
23 a motion to vacate and expunge under this subsection
24 may file motions to vacate and expunge with the Chief
25 Judge of a judicial circuit or any judge of the circuit
26 designated by the Chief Judge, and the motion may

1 include more than one individual.

2 (2) Any State's Attorney may file a motion to vacate
3 and expunge a conviction for a Class 4 felony violation of
4 prostitution. Motions to vacate and expunge under this
5 subsection (j) may be filed with the circuit court, Chief
6 Judge of a judicial circuit, or any judge of the circuit
7 court designated by the Chief Judge, and may include more
8 than one individual. When considering the motion to vacate
9 and expunge, a court shall consider the following reasons:

10 (A) the reasons to retain the records provided by
11 law enforcement;

12 (B) the petitioner's age;

13 (C) the petitioner's age at the time of offense;

14 (D) the time since the conviction; and

15 (E) the specific adverse consequences if denied.

16 If the State's Attorney files a motion to vacate and
17 expunge records for felony prostitution convictions
18 pursuant to this Section, the State's Attorney shall
19 notify the Prisoner Review Board within 30 days of the
20 filing. If a motion to vacate and expunge is granted, the
21 records shall be expunged in accordance with subparagraph
22 (d) (9) (A) of this Section.

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

1 (4) The Illinois State Police shall allow a person to
2 a use the access and review process, established in the
3 Illinois State Police, for verifying that his or her
4 records relating to felony prostitution eligible under
5 this Section have been expunged.

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

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

14 (7) Information. The Illinois State Police shall post
15 general information on its website about the expungement
16 process described in this subsection (j).

17 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
18 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
19 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;
20 102-558, 8-20-21; 102-639, eff. 8-27-21; revised 10-5-21.)