

**SB0522**



**102ND GENERAL ASSEMBLY**

**State of Illinois**

**2021 and 2022**

**SB0522**

Introduced 2/23/2021, by Sen. Christopher Belt

**SYNOPSIS AS INTRODUCED:**

20 ILCS 2630/5.2

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

LRB102 11676 KMF 17010 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning State government.

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

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 affected.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

12 (D) (blank).

13 (b) Expungement.

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

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

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

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

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

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

1 the supervision.

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

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

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

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

1 Court Act of 1987.

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

1 other criminal justice agencies or prosecutors from  
2 listing under an offender's name the false names he or she  
3 has used.

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

20 (6) If a conviction has been set aside on direct  
21 review or on collateral attack and the court determines by  
22 clear and convincing evidence that the petitioner was  
23 factually innocent of the charge, the court that finds the  
24 petitioner factually innocent of the charge shall enter an  
25 expungement order for the conviction for which the  
26 petitioner has been determined to be innocent as provided

1 in subsection (b) of Section 5-5-4 of the Unified Code of  
2 Corrections.

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

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

24 (c) Sealing.

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

1 rights to expungement of criminal records, this subsection  
2 authorizes the sealing of criminal records of adults and  
3 of minors prosecuted as adults. Subsection (g) of this  
4 Section provides for immediate sealing of certain records.

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

7 (A) All arrests resulting in release without  
8 charging;

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

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

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

22 (E) Arrests or charges not initiated by arrest  
23 resulting in orders of first offender probation under  
24 Section 10 of the Cannabis Control Act, Section 410 of  
25 the Illinois Controlled Substances Act, Section 70 of  
26 the Methamphetamine Control and Community Protection



1 Act, or Section 5-6-3.3 of the Unified Code of  
2 Corrections; and

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

7 (3) When Records Are Eligible to Be Sealed. Records  
8 identified as eligible under subsection (c)(2) may be  
9 sealed as follows:

10 (A) Records identified as eligible under  
11 subsection (c)(2)(A) and (c)(2)(B) may be sealed at  
12 any time.

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

18 (C) Except as otherwise provided in subparagraph  
19 (E) of this paragraph (3), records identified as  
20 eligible under subsections (c)(2)(D), (c)(2)(E), and  
21 (c)(2)(F) may be sealed 3 years after the termination  
22 of the petitioner's last sentence (as defined in  
23 subsection (a)(1)(F)). Convictions requiring public  
24 registration under the Arsonist Registration Act, the  
25 Sex Offender Registration Act, or the Murderer and  
26 Violent Offender Against Youth Registration Act may

1 not be sealed until the petitioner is no longer  
2 required to register under that relevant Act.

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

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

23 (4) Subsequent felony convictions. A person may not  
24 have subsequent felony conviction records sealed as  
25 provided in this subsection (c) if he or she is convicted  
26 of any felony offense after the date of the sealing of

1 prior felony convictions as provided in this subsection  
2 (c). The court may, upon conviction for a subsequent  
3 felony offense, order the unsealing of prior felony  
4 conviction records previously ordered sealed by the court.

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

10 (d) Procedure. The following procedures apply to  
11 expungement under subsections (b), (e), and (e-6) and sealing  
12 under subsections (c) and (e-5):

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

25 (1.5) Fee County ~~fee~~ waiver ~~pilot~~ program. No fee  
26 shall be required if the records sought to be expunged or

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

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

1 (10) of subsection (a) of Section 3-3-2 of the Unified  
2 Code of Corrections, the certificate shall be attached to  
3 the petition.

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

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

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

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

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

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

1 (5) Objections.

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

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

13 (6) Entry of order.

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

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

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

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

1 the petition to expunge or seal the records based on the  
2 evidence presented at the hearing. The court may consider  
3 the following:

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

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

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

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

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

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

25 (9) Implementation of order.

26 (A) Upon entry of an order to expunge records



1           pursuant to (b) (2) (A) or (b) (2) (B) (ii), or both:

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

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

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

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

25                   (i) the records shall be expunged (as defined  
26                   in subsection (a) (1) (E)) by the arresting agency

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

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

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

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

1 offense; and

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

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

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

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

25 (iii) the records shall be impounded by the  
26 Department within 60 days of the date of service

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

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

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

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

1 response to inquiries when no records ever existed.

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

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

1 shall not be entered into the official index required  
2 to be kept by the circuit court clerk under Section 16  
3 of the Clerks of Courts Act and shall be immediately  
4 re-impounded upon the collection of the outstanding  
5 financial obligations.

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

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

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

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

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

22 (13) Effect of Order. An order granting a petition  
23 under the expungement or sealing provisions of this  
24 Section shall not be considered void because it fails to  
25 comply with the provisions of this Section or because of  
26 any error asserted in a motion to vacate, modify, or

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

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

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

23 (16) The changes to this subsection (d) made by Public  
24 Act 98-163 apply to all petitions pending on August 5,  
25 2013 (the effective date of Public Act 98-163) and to all  
26 orders ruling on a petition to expunge or seal on or after



1 August 5, 2013 (the effective date of Public Act 98-163).

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

1 order of expungement, the circuit court clerk shall promptly  
2 mail a copy of the order to the person who was pardoned.

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

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

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

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

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

23 (g) Immediate Sealing.

24 (1) Applicability. Notwithstanding any other provision  
25 of this Act to the contrary, and cumulative with any  
26 rights to expungement or sealing of criminal records, this

1 subsection authorizes the immediate sealing of criminal  
2 records of adults and of minors prosecuted as adults.

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

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

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

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

24 (A) Filing the Petition. Upon entry of the final  
25 disposition of the case, the defendant's attorney may  
26 immediately petition the court, on behalf of the

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

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

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

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

25 (E) Entry of Order. The presiding trial judge  
26 shall enter an order granting or denying the petition

1 for immediate sealing during the hearing in which it  
2 is filed. Petitions for immediate sealing shall be  
3 ruled on in the same hearing in which the final  
4 disposition of the case is entered.

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

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

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

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

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

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

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

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

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

21 (h) Sealing; trafficking victims.

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



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

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

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

1 of 2012 or a severe form of trafficking under the federal  
2 Trafficking Victims Protection Act.

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

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

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

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

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

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

26 (C) Records shall be expunged by the law

1 enforcement agency under the following timelines:

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

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

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

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

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

25 (2) Pardons Authorizing Expungement of Minor Cannabis  
26 Offenses.

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

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

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

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

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

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

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

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

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

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

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

24 (D) Nothing in this Section is intended to  
25 diminish or abrogate any rights or remedies otherwise  
26 available to the individual.

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

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

9 (4) Any State's Attorney may file a motion to vacate  
10 and expunge a conviction for a misdemeanor or Class 4  
11 felony violation of Section 4 or Section 5 of the Cannabis  
12 Control Act. Motions to vacate and expunge under this  
13 subsection (i) may be filed with the circuit court, Chief  
14 Judge of a judicial circuit or any judge of the circuit  
15 designated by the Chief Judge, and may include more than  
16 one individual. Motions filed by a State's Attorney  
17 concerning more than one individual may be prepared,  
18 presented, and signed electronically. When considering  
19 such a motion to vacate and expunge, a court shall  
20 consider the following: the reasons to retain the records  
21 provided by law enforcement, the individual's age, the  
22 individual's age at the time of offense, the time since  
23 the conviction, and the specific adverse consequences if  
24 denied. Upon entry of an order granting a motion to vacate  
25 and expunge records pursuant to this Section, the State's  
26 Attorney shall notify the Prisoner Review Board within 30



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

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

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

1           been sentenced of the minor cannabis violation eligible  
2           for expungement under this subsection, the court shall  
3           consider the following: the reasons to retain the records  
4           provided by law enforcement, the petitioner's age, the  
5           petitioner's age at the time of offense, the time since  
6           the conviction, and the specific adverse consequences if  
7           denied. If a motion to dismiss and expunge is granted, the  
8           records shall be expunged in accordance with subparagraph  
9           (d) (9) (A) of this Section.

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

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

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

23           (10) Effect of Expungement. A person's right to  
24           expunge an expungeable offense shall not be limited under  
25           this Section. The effect of an order of expungement shall  
26           be to restore the person to the status he or she occupied

1 before the arrest, charge, or conviction.

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

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