



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2136

Introduced 2/26/2021, by Sen. Jacqueline Y. Collins

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2  
725 ILCS 5/122-1

from Ch. 38, par. 122-1

Amends the Criminal Identification Act. Provides that the Illinois State Police and all law enforcement agencies within the State shall automatically expunge all criminal history records of a conviction for felony prostitution committed prior to the effective date of the amendatory Act. Establishes timelines for the automatic expungement of the records based on the date of the creation of the records. Amends the Code of Criminal Procedure of 1963. Provides that a petition for post-conviction relief may be filed by a person confined, or subject to being confined by the State, local, or federal government as a result of a State criminal conviction (rather than only by persons imprisoned in the penitentiary). Strikes a provision concerning expungement procedures for drug tests. Effective immediately.

LRB102 17328 RJF 22818 b

1 AN ACT concerning criminal law.

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) County fee waiver pilot program. From August 9,  
26 2019 (the effective date of Public Act 101-306) through

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

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

25 (3) (Blank). ~~Drug test. The petitioner must attach to~~  
26 ~~the petition proof that the petitioner has passed a test~~

1 ~~taken within 30 days before the filing of the petition~~  
2 ~~showing the absence within his or her body of all illegal~~  
3 ~~substances as defined by the Illinois Controlled~~  
4 ~~Substances Act, the Methamphetamine Control and Community~~  
5 ~~Protection Act, and the Cannabis Control Act if he or she~~  
6 ~~is petitioning to:~~

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

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

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

13 ~~(D) expunge felony records of a qualified~~  
14 ~~probation under clause (b) (1) (iv).~~

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

22 (5) Objections.

23 (A) Any party entitled to notice of the petition  
24 may file an objection to the petition. All objections  
25 shall be in writing, shall be filed with the circuit  
26 court clerk, and shall state with specificity the

1 basis of the objection. Whenever a person who has been  
2 convicted of an offense is granted a pardon by the  
3 Governor which specifically authorizes expungement, an  
4 objection to the petition may not be filed.

5 (B) Objections to a petition to expunge or seal  
6 must be filed within 60 days of the date of service of  
7 the petition.

8 (6) Entry of order.

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

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

22 (C) Notwithstanding any other provision of law,  
23 the court shall not deny a petition for sealing under  
24 this Section because the petitioner has not satisfied  
25 an outstanding legal financial obligation established,  
26 imposed, or originated by a court, law enforcement

1 agency, or a municipal, State, county, or other unit  
2 of local government, including, but not limited to,  
3 any cost, assessment, fine, or fee. An outstanding  
4 legal financial obligation does not include any court  
5 ordered restitution to a victim under Section 5-5-6 of  
6 the Unified Code of Corrections, unless the  
7 restitution has been converted to a civil judgment.  
8 Nothing in this subparagraph (C) waives, rescinds, or  
9 abrogates a legal financial obligation or otherwise  
10 eliminates or affects the right of the holder of any  
11 financial obligation to pursue collection under  
12 applicable federal, State, or local law.

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

25 (A) the strength of the evidence supporting the  
26 defendant's conviction;

1 (B) the reasons for retention of the conviction  
2 records by the State;

3 (C) the petitioner's age, criminal record history,  
4 and employment history;

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

8 (E) the specific adverse consequences the  
9 petitioner may be subject to if the petition is  
10 denied.

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

20 (9) Implementation of order.

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

23 (i) the records shall be expunged (as defined  
24 in subsection (a) (1) (E)) by the arresting agency,  
25 the Department, and any other agency as ordered by  
26 the court, within 60 days of the date of service of



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

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

13 (iii) in response to an inquiry for expunged  
14 records, the court, the Department, or the agency  
15 receiving such inquiry, shall reply as it does in  
16 response to inquiries when no records ever  
17 existed.

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

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

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

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

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

23           (v) in response to an inquiry for such records  
24 from anyone not authorized by law to access such  
25 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  
2 existed.

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

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

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

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

26 (iv) records impounded by the Department may

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

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

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

23 (D) The Department shall send written notice to  
24 the petitioner of its compliance with each order to  
25 expunge or seal records within 60 days of the date of  
26 service of that order or, if a motion to vacate,

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

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

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

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

26          (11) Final Order. No court order issued under the

1 expungement or sealing provisions of this Section shall  
2 become final for purposes of appeal until 30 days after  
3 service of the order on the petitioner and all parties  
4 entitled to notice of the petition.

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

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

26 (14) Compliance with Order Granting Petition to Seal

1 Records. Unless a court has entered a stay of an order  
2 granting a petition to seal, all parties entitled to  
3 notice of the petition must fully comply with the terms of  
4 the order within 60 days of service of the order even if a  
5 party is seeking relief from the order through a motion  
6 filed under paragraph (12) of this subsection (d) or is  
7 appealing the order.

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

18 (16) The changes to this subsection (d) made by Public  
19 Act 98-163 apply to all petitions pending on August 5,  
20 2013 (the effective date of Public Act 98-163) and to all  
21 orders ruling on a petition to expunge or seal on or after  
22 August 5, 2013 (the effective date of Public Act 98-163).

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

24 (e-5) Whenever a person who has been convicted of an  
25 offense is granted a certificate of eligibility for sealing by  
26 the Prisoner Review Board which specifically authorizes

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

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

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

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

18 (g) Immediate Sealing.

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

24 (2) Eligible Records. Arrests or charges not initiated  
25 by arrest resulting in acquittal or dismissal with  
26 prejudice, except as excluded by subsection (a)(3)(B),

1           that occur on or after January 1, 2018 (the effective date  
2           of Public Act 100-282), may be sealed immediately if the  
3           petition is filed with the circuit court clerk on the same  
4           day and during the same hearing in which the case is  
5           disposed.

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

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

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

19                (A) Filing the Petition. Upon entry of the final  
20                disposition of the case, the defendant's attorney may  
21                immediately petition the court, on behalf of the  
22                defendant, for immediate sealing of eligible records  
23                under paragraph (2) of this subsection (g) that are  
24                entered on or after January 1, 2018 (the effective  
25                date of Public Act 100-282). The immediate sealing  
26                petition may be filed with the circuit court clerk

1 during the hearing in which the final disposition of  
2 the case is entered. If the defendant's attorney does  
3 not file the petition for immediate sealing during the  
4 hearing, the defendant may file a petition for sealing  
5 at any time as authorized under subsection (c) (3) (A).

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

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

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

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

26 (F) Hearings. The court shall hear the petition

1 for immediate sealing on the same day and during the  
2 same hearing in which the disposition is rendered.

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

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

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

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

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

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

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

16 (h) Sealing; trafficking victims.

17           (1) A trafficking victim as defined by paragraph (10)  
18 of subsection (a) of Section 10-9 of the Criminal Code of  
19 2012 shall be eligible to petition for immediate sealing  
20 of his or her criminal record upon the completion of his or  
21 her last sentence if his or her participation in the  
22 underlying offense was a direct result of human  
23 trafficking under Section 10-9 of the Criminal Code of  
24 2012 or a severe form of trafficking under the federal  
25 Trafficking Victims Protection Act.

26           (2) A petitioner under this subsection (h), in



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

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

24 (i) Minor Cannabis Offenses under the Cannabis Control  
25 Act.

26 (1) Expungement of Arrest Records of Minor Cannabis

1 Offenses.

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

9 (i) One year or more has elapsed since the  
10 date of the arrest or law enforcement interaction  
11 documented in the records; and

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

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

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

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

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

4           (iii) Records created prior to January 1, 2000  
5           shall be automatically expunged prior to January  
6           1, 2025.

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

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

20          (2) Pardons Authorizing Expungement of Minor Cannabis  
21          Offenses.

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

1 (i) one or more convictions for a Minor  
2 Cannabis Offense;

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

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

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

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

1 from the Prisoner Review Board.

2 (ii) In response to a written objection from a  
3 State's Attorney, the Prisoner Review Board is  
4 authorized to conduct a non-public hearing to  
5 evaluate the information provided in the  
6 objection.

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

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

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

19 (D) Nothing in this Section is intended to  
20 diminish or abrogate any rights or remedies otherwise  
21 available to the individual.

22 (3) Any individual may file a motion to vacate and  
23 expunge a conviction for a misdemeanor or Class 4 felony  
24 violation of Section 4 or Section 5 of the Cannabis  
25 Control Act. Motions to vacate and expunge under this  
26 subsection (i) may be filed with the circuit court, Chief

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

1 providing civil legal aid concerning more than one  
2 individual may be prepared, presented, and signed  
3 electronically.

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



1 make available to the individual upon request. If a motion  
2 to vacate and expunge is granted, the records shall be  
3 expunged in accordance with subparagraphs (d)(8) and  
4 (d)(9)(A) of this Section.

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

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

1 the conviction, and the specific adverse consequences if  
2 denied. If a motion to dismiss and expunge is granted, the  
3 records shall be expunged in accordance with subparagraph  
4 (d) (9) (A) of this Section.

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

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

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

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

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

26 (j) Felony Prostitution Convictions.

1 (1) Expungement of felony prostitution convictions.

2 (A) The Illinois State Police and all law  
3 enforcement agencies within the State shall  
4 automatically expunge all criminal history records of  
5 a conviction for felony prostitution committed prior  
6 to the effective date of this amendatory Act of the  
7 102nd General Assembly.

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

11 (i) Records created prior to the effective  
12 date of this amendatory Act of the 102nd General  
13 Assembly, but on or after January 1, 2013, shall  
14 be automatically expunged prior to January 1,  
15 2022.

16 (ii) Records created prior to January 1, 2013,  
17 but after, but on or after January 1, 2001, shall  
18 be automatically expunged prior to January 1,  
19 2023.

20 (iii) Records created prior to January 1, 2000  
21 shall be automatically expunged prior to January  
22 1, 2024.

23 (C) Nothing in this subsection (j) shall be  
24 construed to restrict or modify an individual's right  
25 to have that individual's records expunged, except as  
26 otherwise may be provided in this Act, or diminish or

1           abrogate any rights or remedies otherwise available to  
2           the individual.

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

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

13           (B) the petitioner's age;

14           (C) the petitioner's age at the time of offense;  
15          and

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

1           Assistance Act, assisting individuals seeking to file  
2           a motion to vacate and expunge under this subsection  
3           may file motions to vacate and expunge with the Chief  
4           Judge of a judicial circuit or any judge of the circuit  
5           designated by the Chief Judge, and the motion may  
6           include more than one individual.

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

15                   (A) the reasons to retain the records provided by  
16                   law enforcement;

17                   (B) the petitioner's age;

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

19                   (D) the time since the conviction; and

20                   (E) the specific adverse consequences if denied.

21           If the State's Attorney files a motion to vacate and  
22           expunge records for felony prostitution convictions  
23           pursuant to this Section, the State's Attorney shall  
24           notify the Prisoner Review Board within 30 days of the  
25           filing. If a motion to vacate and expunge is granted, the  
26           records shall be expunged in accordance with subparagraph

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

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

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

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

19 (8) Information. The Illinois State Police shall post  
20 general information on its website about the expungement  
21 process described in this subsection (j).

22 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;  
23 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.  
24 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,  
25 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;  
26 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.

1 12-4-19; 101-645, eff. 6-26-20; revised 8-18-20.)

2 Section 10. The Code of Criminal Procedure of 1963 is  
3 amended by changing Section 122-1 as follows:

4 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

5 Sec. 122-1. Petition in the trial court.

6 (a) Any person imprisoned in the penitentiary or otherwise  
7 confined, or subject to being confined by the State, local, or  
8 federal government as a result of a State criminal conviction,  
9 may institute a proceeding under this Article if the person  
10 asserts that:

11 (1) in the proceedings which resulted in his or her  
12 conviction there was a substantial denial of his or her  
13 rights under the Constitution of the United States or of  
14 the State of Illinois or both;

15 (2) the death penalty was imposed and there is newly  
16 discovered evidence not available to the person at the  
17 time of the proceeding that resulted in his or her  
18 conviction that establishes a substantial basis to believe  
19 that the defendant is actually innocent by clear and  
20 convincing evidence; or

21 (3) (blank).

22 (a-5) A proceeding under paragraph (2) of subsection (a)  
23 may be commenced within a reasonable period of time after the  
24 person's conviction notwithstanding any other provisions of

1 this Article. In such a proceeding regarding actual innocence,  
2 if the court determines the petition is frivolous or is  
3 patently without merit, it shall dismiss the petition in a  
4 written order, specifying the findings of fact and conclusions  
5 of law it made in reaching its decision. Such order of  
6 dismissal is a final judgment and shall be served upon the  
7 petitioner by certified mail within 10 days of its entry.

8 (b) The proceeding shall be commenced by filing with the  
9 clerk of the court in which the conviction took place a  
10 petition (together with a copy thereof) verified by affidavit.  
11 Petitioner shall also serve another copy upon the State's  
12 Attorney by any of the methods provided in Rule 7 of the  
13 Supreme Court. The clerk shall docket the petition for  
14 consideration by the court pursuant to Section 122-2.1 upon  
15 his or her receipt thereof and bring the same promptly to the  
16 attention of the court.

17 (c) Except as otherwise provided in subsection (a-5), if  
18 the petitioner is under sentence of death and a petition for  
19 writ of certiorari is filed, no proceedings under this Article  
20 shall be commenced more than 6 months after the conclusion of  
21 proceedings in the United States Supreme Court, unless the  
22 petitioner alleges facts showing that the delay was not due to  
23 his or her culpable negligence. If a petition for certiorari  
24 is not filed, no proceedings under this Article shall be  
25 commenced more than 6 months from the date for filing a  
26 certiorari petition, unless the petitioner alleges facts



1 showing that the delay was not due to his or her culpable  
2 negligence.

3 When a defendant has a sentence other than death, no  
4 proceedings under this Article shall be commenced more than 6  
5 months after the conclusion of proceedings in the United  
6 States Supreme Court, unless the petitioner alleges facts  
7 showing that the delay was not due to his or her culpable  
8 negligence. If a petition for certiorari is not filed, no  
9 proceedings under this Article shall be commenced more than 6  
10 months from the date for filing a certiorari petition, unless  
11 the petitioner alleges facts showing that the delay was not  
12 due to his or her culpable negligence. If a defendant does not  
13 file a direct appeal, the post-conviction petition shall be  
14 filed no later than 3 years from the date of conviction, unless  
15 the petitioner alleges facts showing that the delay was not  
16 due to his or her culpable negligence.

17 This limitation does not apply to a petition advancing a  
18 claim of actual innocence.

19 (d) A person seeking relief by filing a petition under  
20 this Section must specify in the petition or its heading that  
21 it is filed under this Section. A trial court that has received  
22 a petition complaining of a conviction or sentence that fails  
23 to specify in the petition or its heading that it is filed  
24 under this Section need not evaluate the petition to determine  
25 whether it could otherwise have stated some grounds for relief  
26 under this Article.

1           (e) A proceeding under this Article may not be commenced  
2 on behalf of a defendant who has been sentenced to death  
3 without the written consent of the defendant, unless the  
4 defendant, because of a mental or physical condition, is  
5 incapable of asserting his or her own claim.

6           (f) Only one petition may be filed by a petitioner under  
7 this Article without leave of the court. Leave of court may be  
8 granted only if a petitioner demonstrates cause for his or her  
9 failure to bring the claim in his or her initial  
10 post-conviction proceedings and prejudice results from that  
11 failure. For purposes of this subsection (f): (1) a prisoner  
12 shows cause by identifying an objective factor that impeded  
13 his or her ability to raise a specific claim during his or her  
14 initial post-conviction proceedings; and (2) a prisoner shows  
15 prejudice by demonstrating that the claim not raised during  
16 his or her initial post-conviction proceedings so infected the  
17 trial that the resulting conviction or sentence violated due  
18 process.

19           (Source: P.A. 100-574, eff. 6-1-18; 101-411, eff. 8-16-19.)

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