

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

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

11 (B) the petitioner's age;

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

13 and

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

1 may file motions to vacate and expunge with the Chief
2 Judge of a judicial circuit or any judge of the circuit
3 designated by the Chief Judge, and the motion may
4 include more than one individual.

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

13 (A) the reasons to retain the records provided by
14 law enforcement;

15 (B) the petitioner's age;

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

17 (D) the time since the conviction; and

18 (E) the specific adverse consequences if denied.

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

26 (3) In the public interest, the State's Attorney of a

1 county has standing to file motions to vacate and expunge
2 pursuant to this Section in the circuit court with
3 jurisdiction over the underlying conviction.

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

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

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

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

20 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;
21 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.
22 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,
23 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
24 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
25 12-4-19; 101-645, eff. 6-26-20; revised 8-18-20.)

1 Section 10. The Code of Criminal Procedure of 1963 is
2 amended by changing Section 122-1 and by adding Section 122-9
3 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 may
7 institute a proceeding under this Article if the person
8 asserts that:

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

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

19 (3) (blank).

20 (a-5) A proceeding under paragraph (2) of subsection (a)
21 may be commenced within a reasonable period of time after the
22 person's conviction notwithstanding any other provisions of
23 this Article. In such a proceeding regarding actual innocence,
24 if the court determines the petition is frivolous or is
25 patently without merit, it shall dismiss the petition in a

1 written order, specifying the findings of fact and conclusions
2 of law it made in reaching its decision. Such order of
3 dismissal is a final judgment and shall be served upon the
4 petitioner by certified mail within 10 days of its entry.

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

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

26 When a defendant has a sentence other than death, no

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

14 This limitation does not apply to a petition advancing a
15 claim of actual innocence.

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

24 (e) A proceeding under this Article may not be commenced
25 on behalf of a defendant who has been sentenced to death
26 without the written consent of the defendant, unless the

1 defendant, because of a mental or physical condition, is
2 incapable of asserting his or her own claim.

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

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

17 (725 ILCS 5/122-9 new)

18 Sec. 122-9. Institution of proceedings. Any individual may
19 at any time institute proceedings under this Article,
20 notwithstanding that he or she is no longer imprisoned and
21 notwithstanding that his or her liberties are not being
22 currently curtailed by action of the State, if his or her
23 conviction has potential consequences under federal
24 immigration law. For purposes of this subsection, "conviction"
25 refers to any disposition where the individual has pleaded or

1 been found guilty in state court, regardless of whether the
2 state court entered judgment on the matter.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.