



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1090

Introduced 1/12/2023, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

410 ILCS 705/10-15

720 ILCS 550/5

720 ILCS 550/4 rep.

from Ch. 56 1/2, par. 705

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 an arrest, charge not initiated by arrest, order of supervision, or order of qualified probation for any person who, on or after January 1, 1970, has been convicted of, or is serving an order of supervision for, possession or delivery, but not manufacture or production, of cannabis whether or not the person has served or is serving his or her sentence for that violation on the effective date of the amendatory Act. Provides that the clerk of the circuit court shall, on the effective date of the amendatory Act, automatically expunge the court records of a person who, on or after January 1, 1970, has been convicted of, or is serving an order of supervision for, possession or delivery, but not manufacture or production, of cannabis whether or not the person has served or is serving his or her sentence for that violation on the effective date of the amendatory Act. Provides that a person imprisoned solely as a result of one or more convictions for possession or delivery, but not manufacture or production, of cannabis shall be released from incarceration on the effective date of the amendatory Act. Provides that, notwithstanding these provisions, no person shall be eligible for expungement if the violation occurred during the commission by the person of first degree murder, kidnapping, aggravated kidnaping, criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, or felony criminal sexual abuse. Amends the Cannabis Control Act. Repeals the provision prohibiting the possession of cannabis. Modifies the provision prohibiting the delivery or manufacture of cannabis so it applies only to manufacture or production of cannabis. Amends the Cannabis Regulation and Tax Act to make conforming changes.

LRB103 04858 RLC 49868 b

A BILL FOR

1 AN ACT concerning cannabis.

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 following Sections of the
14 Unified Code of Corrections:

15 Business Offense, Section 5-1-2.

16 Charge, Section 5-1-3.

17 Court, Section 5-1-6.

18 Defendant, Section 5-1-7.

19 Felony, Section 5-1-9.

20 Imprisonment, Section 5-1-10.

21 Judgment, Section 5-1-12.

22 Misdemeanor, Section 5-1-14.

23 Offense, Section 5-1-15.

1 Parole, Section 5-1-16.
2 Petty Offense, Section 5-1-17.
3 Probation, Section 5-1-18.
4 Sentence, Section 5-1-19.
5 Supervision, Section 5-1-21.
6 Victim, Section 5-1-22.

7 (B) As used in this Section, "charge not initiated
8 by arrest" means a charge (as defined by Section 5-1-3
9 of the Unified Code of Corrections) brought against a
10 defendant where the defendant is not arrested prior to
11 or as a direct 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) ~~Section 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 Illinois State
25 Police for persons arrested prior to their 17th birthday
26 shall be expunged as provided in Section 5-915 of the

1 Juvenile 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 Illinois State Police, other criminal justice agencies,
14 the prosecutor, and the trial court concerning such
15 arrest, if any, by removing his or her name from all such
16 records in connection with the arrest and conviction, if
17 any, and by inserting in the records the name of the
18 offender, if known or ascertainable, in lieu of the
19 aggrieved's name. The records of the circuit court clerk
20 shall be sealed until further order of the court upon good
21 cause shown and the name of the aggrieved person
22 obliterated on the official index required to be kept by
23 the circuit court clerk under Section 16 of the Clerks of
24 Courts Act, but the order shall not affect any index
25 issued by the circuit court clerk before the entry of the
26 order. Nothing in this Section shall limit the Illinois

1 State Police or other criminal justice agencies or
2 prosecutors from listing under an offender's name the
3 false names he or she 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 Illinois State Police concerning the offense shall
16 not be sealed. The court, upon good cause shown, shall
17 make the records of the circuit court clerk in connection
18 with the proceedings of the trial court concerning the
19 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 Illinois
4 State Police from maintaining all records of any person
5 who is admitted to probation upon terms and conditions and
6 who fulfills those terms and conditions pursuant to
7 Section 10 of the Cannabis Control Act, Section 410 of the
8 Illinois Controlled Substances Act, Section 70 of the
9 Methamphetamine Control and Community Protection Act,
10 Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
11 Corrections, Section 12-4.3 or subdivision (b)(1) of
12 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 subsections ~~subsection~~ (c)(2)(A) and (c)(2)(B) may be
12 sealed at 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 subsection ~~subsections~~ (c) (2) (C), (c) (2) (D),
8 (c) (2) (E), or (c) (2) (F) may be sealed upon termination
9 of the petitioner's last sentence if the petitioner
10 earned a high school diploma, associate's degree,
11 career certificate, vocational technical
12 certification, or bachelor's degree, or passed the
13 high school level Test of General Educational
14 Development, during the period of his or her sentence
15 or mandatory supervised release. This subparagraph
16 shall apply only to a petitioner who has not completed
17 the same educational goal prior to the period of his or
18 her sentence or mandatory supervised release. If a
19 petition for sealing eligible records filed under this
20 subparagraph is denied by the court, the time periods
21 under subparagraph (B) or (C) shall apply to any
22 subsequent petition for sealing filed by the
23 petitioner.

24 (4) Subsequent felony convictions. A person may not
25 have subsequent felony conviction records sealed as
26 provided in this subsection (c) if he or she is convicted

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

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

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

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

26 (1.5) County fee waiver pilot program. From August 9,

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

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

26 (3) Drug test. The petitioner must attach to the

1 petition proof that the petitioner has taken within 30
2 days before the filing of the petition a test showing the
3 absence within his or her body of all illegal substances
4 as defined by the Illinois Controlled Substances Act and
5 the Methamphetamine Control and Community Protection Act
6 if he or she 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 Illinois State Police, the
20 arresting agency and the chief legal officer of the unit
21 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 Illinois State Police, the arresting agency, or the
18 chief legal officer files an objection to the petition
19 to expunge or seal within 60 days from the date of
20 service of the petition, the court shall enter an
21 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 (D) Notwithstanding any other provision of law,
14 the court shall not deny a petition to expunge or seal
15 under this Section because the petitioner has
16 submitted a drug test taken within 30 days before the
17 filing of the petition to expunge or seal that
18 indicates a positive test for the presence of cannabis
19 within the petitioner's body. In this subparagraph
20 (D), "cannabis" has the meaning ascribed to it in
21 Section 3 of the Cannabis Control Act.

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

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

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

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

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

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

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

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

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

3 (9) Implementation of order.

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

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

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

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

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

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

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

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

21 (iii) the records shall be impounded by the
22 Illinois State Police within 60 days of the date
23 of service of the order as ordered by the court,
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 (iv) records impounded by the Illinois State
2 Police may be disseminated by the Illinois State
3 Police only as required by law or to the arresting
4 authority, the State's Attorney, and the court
5 upon a later arrest for the same or a similar
6 offense or for the purpose of sentencing for any
7 subsequent felony, and to the Department of
8 Corrections upon conviction for any offense; and

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

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

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

24 (ii) the records of the circuit court clerk
25 shall be impounded until further order of the
26 court upon good cause shown and the name of the

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

6 (iii) the records shall be impounded by the
7 Illinois State Police within 60 days of the date
8 of service of the order as ordered by the court,
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 (iv) records impounded by the Illinois State
13 Police may be disseminated by the Illinois State
14 Police only as required by law or to the arresting
15 authority, the State's Attorney, and the court
16 upon a later arrest for the same or a similar
17 offense or for the purpose of sentencing for any
18 subsequent felony, and to the Department of
19 Corrections upon conviction for any offense; and

20 (v) in response to an inquiry for these
21 records from anyone not authorized by law to
22 access the records, the court, the Illinois State
23 Police, or the agency receiving the inquiry shall
24 reply as it does in response to inquiries when no
25 records ever existed.

26 (C) Upon entry of an order to seal records under

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

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

26 (E) Upon motion, the court may order that a sealed

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

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

20 (10) Fees. The Illinois State Police may charge the
21 petitioner a fee equivalent to the cost of processing any
22 order to expunge or seal records. Notwithstanding any
23 provision of the Clerks of Courts Act to the contrary, the
24 circuit court clerk may charge a fee equivalent to the
25 cost associated with the sealing or expungement of records
26 by the circuit court clerk. From the total filing fee

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

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

18 (12) Motion to Vacate, Modify, or Reconsider. Under
19 Section 2-1203 of the Code of Civil Procedure, the
20 petitioner or any party entitled to notice may file a
21 motion to vacate, modify, or reconsider the order granting
22 or denying the petition to expunge or seal within 60 days
23 of service of the order. If filed more than 60 days after
24 service of the order, a petition to vacate, modify, or
25 reconsider shall comply with subsection (c) of Section
26 2-1401 of the Code of Civil Procedure. Upon filing of a

1 motion to vacate, modify, or reconsider, notice of the
2 motion shall be served upon the petitioner and all parties
3 entitled to notice of the petition.

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

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

21 (15) Compliance with Order Granting Petition to
22 Expunge Records. While a party is seeking relief from the
23 order granting the petition to expunge through a motion
24 filed under paragraph (12) of this subsection (d) or is
25 appealing the order, and unless a court has entered a stay
26 of that order, the parties entitled to notice of the

1 petition must seal, but need not expunge, the records
2 until there is a final order on the motion for relief or,
3 in the case of an appeal, the issuance of that court's
4 mandate.

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

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

1 before the entry of the order. All records sealed by the
2 Illinois State Police may be disseminated by the Illinois
3 State Police only to the arresting authority, the State's
4 Attorney, and the court upon a later arrest for the same or
5 similar offense or for the purpose of sentencing for any
6 subsequent felony. Upon conviction for any subsequent offense,
7 the Department of Corrections shall have access to all sealed
8 records of the Illinois State Police pertaining to that
9 individual. Upon entry of the order of expungement, the
10 circuit court clerk shall promptly mail a copy of the order to
11 the person who was pardoned.

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

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

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

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

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

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

8 (g) Immediate Sealing.

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

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

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

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

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

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

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

1 authority if applicable, and other information as the
2 court may require.

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

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

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

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

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

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

25 (I) Fees. The fee imposed by the circuit court
26 clerk and the Illinois State Police shall comply with

1 paragraph (1) of subsection (d) of this Section.

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

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

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

26 (M) Compliance with Order Granting Petition to

1 Seal Records. Unless a court has entered a stay of an
2 order granting a petition to immediately seal, all
3 parties entitled to service of the order must fully
4 comply with the terms of the order within 60 days of
5 service of the order.

6 (h) Sealing; trafficking victims.

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

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

26 (3) If an objection is filed alleging that the

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

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

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

18 (A) The Illinois State Police and all law
19 enforcement agencies within the State shall
20 automatically expunge all criminal history records of
21 an arrest, charge not initiated by arrest, order of
22 supervision, or order of qualified probation for a
23 Minor Cannabis Offense committed prior to June 25,
24 2019 (the effective date of Public Act 101-27) if:

25 (i) One year or more has elapsed since the
26 date of the arrest or law enforcement interaction

1 documented in the records; and

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

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

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

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

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

20 (iii) Records created prior to January 1, 2000
21 shall be automatically expunged prior to January
22 1, 2025.

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

1 certificate of disposition or confirmation that the
2 record was expunged to the individual whose record was
3 expunged if such a record exists.

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

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

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

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

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

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

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

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

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

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

1 identified by the Department of State Police as
2 described in paragraph (2) (A).

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

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

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

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

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

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

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

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

25 (6) If a person is arrested for a Minor Cannabis
26 Offense as defined in this Section before June 25, 2019

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

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

25 (8) The Illinois State Police shall allow a person to
26 use the access and review process, established in the

1 Illinois State Police, for verifying that his or her
2 records relating to Minor Cannabis Offenses of the
3 Cannabis Control Act eligible under this Section have been
4 expunged.

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

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

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

16 (j) Felony Prostitution Convictions.

17 (1) Any individual may file a motion to vacate and
18 expunge a conviction for a prior Class 4 felony violation
19 of prostitution. Motions to vacate and expunge under this
20 subsection (j) may be filed with the circuit court, Chief
21 Judge of a judicial circuit, or any judge of the circuit
22 designated by the Chief Judge. When considering the motion
23 to vacate and expunge, a court shall consider the
24 following:

25 (A) the reasons to retain the records provided by
26 law enforcement;

1 (B) the petitioner's age;
2 (C) the petitioner's age at the time of offense;
3 and

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

21 (2) Any State's Attorney may file a motion to vacate
22 and expunge a conviction for a Class 4 felony violation of
23 prostitution. Motions to vacate and expunge under this
24 subsection (j) may be filed with the circuit court, Chief
25 Judge of a judicial circuit, or any judge of the circuit
26 court designated by the Chief Judge, and may include more

1 than one individual. When considering the motion to vacate
2 and expunge, a court shall consider the following reasons:

3 (A) the reasons to retain the records provided by
4 law enforcement;

5 (B) the petitioner's age;

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

7 (D) the time since the conviction; and

8 (E) the specific adverse consequences if denied.

9 If the State's Attorney files a motion to vacate and
10 expunge records for felony prostitution convictions
11 pursuant to this Section, the State's Attorney shall
12 notify the Prisoner Review Board within 30 days of the
13 filing. If a motion to vacate and expunge is granted, the
14 records shall be expunged in accordance with subparagraph
15 (d) (9) (A) of this Section.

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

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

25 (5) No conviction vacated pursuant to this Section
26 shall serve as the basis for damages for time unjustly

1 served as provided in the Court of Claims Act.

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

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

10 (j) Notwithstanding any other provision of this Section to
11 the contrary, the Illinois State Police and all law
12 enforcement agencies within the State shall automatically
13 expunge all criminal history records of an arrest, charge not
14 initiated by arrest, order of supervision, or order of
15 qualified probation for any person who, on or after January 1,
16 1970, has been convicted of, pled guilty to, or is serving an
17 order of supervision for a violation of Section 4 or 5 of the
18 Cannabis Control Act or a predecessor law of this State
19 prohibiting the possession or delivery of cannabis whether or
20 not the person has served or is serving his or her sentence for
21 that violation on the effective date of this amendatory Act of
22 the 103rd General Assembly. The clerk of the circuit court
23 shall, on the effective date of this amendatory Act of the
24 103rd General Assembly, automatically expunge the court
25 records of a person who, on or after January 1, 1970, has been
26 convicted of, or is serving an order of supervision for, a

1 violation of Section 4 or 5 of the Cannabis Control Act or a
2 predecessor law of this State prohibiting the possession or
3 delivery of cannabis whether or not the person has served or is
4 serving his or her sentence for that violation on the
5 effective date of this amendatory Act of the 103rd General
6 Assembly. A person imprisoned solely as a result of one or more
7 convictions for a violation of Section 4 or 5 of the Cannabis
8 Control Act under this subsection (j) shall be released from
9 incarceration on the effective date of this amendatory Act of
10 the 103rd General Assembly. This subsection (j) does not apply
11 to offenses involving the manufacture or production of
12 cannabis.

13 (k) Notwithstanding any other provision of subsections (i)
14 and (j), no person shall be eligible for expungement under
15 subsection (i) or (j) if the violation occurred during the
16 commission by the person of first degree murder, kidnapping,
17 aggravated kidnaping, criminal sexual assault, aggravated
18 criminal sexual assault, predatory criminal sexual assault of
19 a child, aggravated criminal sexual abuse, or felony criminal
20 sexual abuse.

21 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
22 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
23 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;
24 102-558, 8-20-21; 102-639, eff. 8-27-21; 102-813, eff.
25 5-13-22; 102-933, eff. 1-1-23; revised 12-8-22.)

1 Section 10. The Cannabis Regulation and Tax Act is amended
2 by changing Section 10-15 as follows:

3 (410 ILCS 705/10-15)

4 Sec. 10-15. Persons under 21 years of age.

5 (a) Nothing in this Act is intended to permit the transfer
6 of cannabis, with or without remuneration, to a person under
7 21 years of age, or to allow a person under 21 years of age to
8 purchase, possess, use, process, transport, grow, or consume
9 cannabis except where authorized by the Compassionate Use of
10 Medical Cannabis Program Act or by the Community College
11 Cannabis Vocational Pilot Program.

12 (b) Notwithstanding any other provisions of law
13 authorizing the possession of medical cannabis, nothing in
14 this Act authorizes a person who is under 21 years of age to
15 possess cannabis. A person under 21 years of age with cannabis
16 in his or her possession is guilty of a civil law violation
17 punishable by a minimum fine of \$100 and a maximum fine of \$200
18 as outlined in paragraph (a) of Section 4 of the Cannabis
19 Control Act. The proceeds of the fine shall be payable to the
20 clerk of the circuit court. Within 30 days after the deposit of
21 the fine, the clerk shall distribute the proceeds of the fine
22 as follows:

23 (1) \$10 of the fine to the circuit clerk and \$10 of the
24 fine to the law enforcement agency that issued the
25 citation; the proceeds of each \$10 fine distributed to the

1 circuit clerk and each \$10 fine distributed to the law
2 enforcement agency that issued the citation for the
3 violation shall be used to defer the cost of automatic
4 expungements under paragraph (2.5) of subsection (a) of
5 Section 5.2 of the Criminal Identification Act;

6 (2) \$15 to the county to fund drug addiction services;

7 (3) \$10 to the Office of the State's Attorneys
8 Appellate Prosecutor for use in training programs;

9 (4) \$10 to the State's Attorney; and

10 (5) any remainder of the fine to the law enforcement
11 agency that issued the citation for the violation.

12 With respect to funds designated for the Illinois State
13 Police, the moneys shall be remitted by the circuit court
14 clerk to the Illinois State Police within one month after
15 receipt for deposit into the State Police Operations
16 Assistance Fund. With respect to funds designated for the
17 Department of Natural Resources, the Department of Natural
18 Resources shall deposit the moneys into the Conservation
19 Police Operations Assistance Fund.

20 (c) If the person under the age of 21 was in a motor
21 vehicle at the time of the offense, the Secretary of State may
22 suspend or revoke the driving privileges of any person for a
23 violation of this Section under Section 6-206 of the Illinois
24 Vehicle Code and the rules adopted under it.

25 (d) It is unlawful for any parent or guardian to knowingly
26 permit his or her residence, any other private property under

1 his or her control, or any vehicle, conveyance, or watercraft
2 under his or her control to be used by an invitee of the
3 parent's child or the guardian's ward, if the invitee is under
4 the age of 21, in a manner that constitutes a violation of this
5 Section. A parent or guardian is deemed to have knowingly
6 permitted his or her residence, any other private property
7 under his or her control, or any vehicle, conveyance, or
8 watercraft under his or her control to be used in violation of
9 this Section if he or she knowingly authorizes or permits
10 consumption of cannabis by underage invitees. Any person who
11 violates this subsection (d) is guilty of a Class A
12 misdemeanor and the person's sentence shall include, but shall
13 not be limited to, a fine of not less than \$500. If a violation
14 of this subsection (d) directly or indirectly results in great
15 bodily harm or death to any person, the person violating this
16 subsection is guilty of a Class 4 felony. In this subsection
17 (d), where the residence or other property has an owner and a
18 tenant or lessee, the trier of fact may infer that the
19 residence or other property is occupied only by the tenant or
20 lessee.

21 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

22 Section 15. The Cannabis Control Act is amended by
23 changing Section 5 as follows:

24 (720 ILCS 550/5) (from Ch. 56 1/2, par. 705)

1 Sec. 5. Except as otherwise provided in the Cannabis
2 Regulation and Tax Act and the Industrial Hemp Act, it is
3 unlawful for any person knowingly to manufacture, ~~deliver,~~ or
4 possess with intent to ~~deliver, or~~ manufacture, cannabis. Any
5 person who violates this Section with respect to:

6 (a) not more than 2.5 grams of any substance
7 containing cannabis is guilty of a Class B misdemeanor;

8 (b) more than 2.5 grams but not more than 10 grams of
9 any substance containing cannabis is guilty of a Class A
10 misdemeanor;

11 (c) more than 10 grams but not more than 30 grams of
12 any substance containing cannabis is guilty of a Class 4
13 felony;

14 (d) more than 30 grams but not more than 500 grams of
15 any substance containing cannabis is guilty of a Class 3
16 felony for which a fine not to exceed \$50,000 may be
17 imposed;

18 (e) more than 500 grams but not more than 2,000 grams
19 of any substance containing cannabis is guilty of a Class
20 2 felony for which a fine not to exceed \$100,000 may be
21 imposed;

22 (f) more than 2,000 grams but not more than 5,000
23 grams of any substance containing cannabis is guilty of a
24 Class 1 felony for which a fine not to exceed \$150,000 may
25 be imposed;

26 (g) more than 5,000 grams of any substance containing

1 cannabis is guilty of a Class X felony for which a fine not
2 to exceed \$200,000 may be imposed.

3 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

4 (720 ILCS 550/4 rep.)

5 Section 20. The Cannabis Control Act is amended by
6 repealing Section 4.