



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1462

Introduced 1/31/2023, by Rep. Tony M. McCombie

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that the court may not order the sealing or expungement of the records of arrests or charges not initiated by arrest that result in an order of supervision for or conviction of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof (DUI) under the Illinois Vehicle Code or a similar provision of a local ordinance; except that the court may order the sealing of one misdemeanor record of arrest or charge not initiated by arrest that results in an order of supervision for or conviction of DUI under the Illinois Vehicle Code or a similar provision of a local ordinance per petitioner if each of the following conditions have been met: (1) the petitioner has not previously been convicted of or placed on supervision for DUI under the Illinois Vehicle Code or a similar provision of a local ordinance; (2) 10 or more years have passed since the termination of the petitioner's sentence; (3) during the commission of the violation, the petitioner did not proximately cause death or personal injury to any other person or damage the property of any other person; (4) the petitioner has no other misdemeanor or felony driving charge on his or her driving abstract; and (5) the judge examined the driving abstract of the petitioner petitioning to have his or her records sealed under this provision and made a finding entered on the record that the petitioner did not enter into a plea agreement on a lesser charge other than a DUI under the Illinois Vehicle Code or a similar provision of a local ordinance, and the facts did not support that the petitioner had previously committed a DUI under the Illinois Vehicle Code or a similar provision of a local ordinance. Provides that the Secretary of State shall maintain orders of court supervision and convictions for DUI under the Illinois vehicle Code or a similar provision of a local ordinance on court purposes driving abstracts. Provides that the Act may be referred to as the Second Chance Act.

LRB103 05838 RLC 51448 b

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 1. References to Act. This Act may be referred to
5 as the Second Chance Act.

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

8 (20 ILCS 2630/5.2)

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

10 (a) General Provisions.

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

14 (A) The following terms shall have the meanings
15 ascribed to them in the following Sections of the
16 Unified Code of Corrections:

17 Business Offense, Section 5-1-2.

18 Charge, Section 5-1-3.

19 Court, Section 5-1-6.

20 Defendant, Section 5-1-7.

21 Felony, Section 5-1-9.

22 Imprisonment, Section 5-1-10.

1 Judgment, Section 5-1-12.
2 Misdemeanor, Section 5-1-14.
3 Offense, Section 5-1-15.
4 Parole, Section 5-1-16.
5 Petty Offense, Section 5-1-17.
6 Probation, Section 5-1-18.
7 Sentence, Section 5-1-19.
8 Supervision, Section 5-1-21.
9 Victim, Section 5-1-22.

10 (B) As used in this Section, "charge not initiated
11 by arrest" means a charge (as defined by Section 5-1-3
12 of the Unified Code of Corrections) brought against a
13 defendant where the defendant is not arrested prior to
14 or as a direct result of the charge.

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

1 unsatisfactory termination is reversed, vacated, or
2 modified and the judgment of conviction, if any, is
3 reversed or vacated.

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

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

19 (F) As used in this Section, "last sentence" means
20 the sentence, order of supervision, or order of
21 qualified probation (as defined by subsection
22 (a)(1)(J)), for a criminal offense (as defined by
23 subsection (a)(1)(D)) that terminates last in time in
24 any jurisdiction, regardless of whether the petitioner
25 has included the criminal offense for which the
26 sentence or order of supervision or qualified

1 probation was imposed in his or her petition. If
2 multiple sentences, orders of supervision, or orders
3 of qualified probation terminate on the same day and
4 are last in time, they shall be collectively
5 considered the "last sentence" regardless of whether
6 they were ordered to run concurrently.

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

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

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

25 (I) "Petitioner" means an adult or a minor
26 prosecuted as an adult who has applied for relief

1 under this Section.

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

20 (K) "Seal" means to physically and electronically
21 maintain the records, unless the records would
22 otherwise be destroyed due to age, but to make the
23 records unavailable without a court order, subject to
24 the exceptions in Sections 12 and 13 of this Act. The
25 petitioner's name shall also be obliterated from the
26 official index required to be kept by the circuit

1 court clerk under Section 16 of the Clerks of Courts
2 Act, but any index issued by the circuit court clerk
3 before the entry of the order to seal shall not be
4 affected.

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

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

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

20 (2.5) Commencing 180 days after July 29, 2016 (the
21 effective date of Public Act 99-697), the law enforcement
22 agency issuing the citation shall automatically expunge,
23 on or before January 1 and July 1 of each year, the law
24 enforcement records of a person found to have committed a
25 civil law violation of subsection (a) of Section 4 of the
26 Cannabis Control Act or subsection (c) of Section 3.5 of

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

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

22 (A) the sealing or expungement of the records of
23 arrests or charges not initiated by arrest that result
24 in an order of supervision for or conviction of: (i)
25 any sexual offense committed against a minor; (ii)
26 (blank) ~~Section 11-501 of the Illinois Vehicle Code or~~

1 ~~a similar provision of a local ordinance;~~ or (iii)
2 Section 11-503 of the Illinois Vehicle Code or a
3 similar provision of a local ordinance, unless the
4 arrest or charge is for a misdemeanor violation of
5 subsection (a) of Section 11-503 or a similar
6 provision of a local ordinance, that occurred prior to
7 the offender reaching the age of 25 years and the
8 offender has no other conviction for violating Section
9 11-501 or 11-503 of the Illinois Vehicle Code or a
10 similar provision of a local ordinance.

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

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

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

26 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,

1 26-5, or 48-1 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, or a similar provision of a
3 local ordinance;

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

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

12 (v) any offense or attempted offense that
13 would subject a person to registration under the
14 Sex Offender Registration Act.

15 (D) (blank).

16 (E) the sealing or expungement of records of
17 arrests or charges not initiated by arrest that result
18 in an order of supervision for or conviction of
19 Section 11-501 of the Illinois Vehicle Code or a
20 similar provision of a local ordinance; except that
21 the court may order the sealing of one misdemeanor
22 record of arrest or charge not initiated by arrest
23 that results in an order of supervision for or
24 conviction of Section 11-501 of the Illinois Vehicle
25 Code or a similar provision of a local ordinance per
26 petitioner if each of the following conditions have

1 been met: (i) the petitioner has not previously been
2 convicted of or placed on supervision for a violation
3 of Section 11-501 of the Illinois Vehicle Code or a
4 similar provision of a local ordinance; (ii) 10 or
5 more years have passed since the termination of the
6 petitioner's sentence; (iii) during the commission of
7 the violation, the petitioner did not proximately
8 cause death or personal injury to any other person or
9 damage the property of any other person; (iv) the
10 petitioner has no other misdemeanor or felony driving
11 charge on his or her driving abstract; and (v) the
12 judge examined the driving abstract of the petitioner
13 petitioning to have his or her record sealed under
14 this subparagraph (E) and made a finding entered on
15 the record that the petitioner did not enter into a
16 plea agreement on a lesser charge other than a
17 violation of Section 11-501 of the Illinois Vehicle
18 Code or a similar provision of a local ordinance, and
19 the facts did not support that the petitioner had
20 previously committed a violation of Section 11-501 of
21 the Illinois Vehicle Code or a similar provision of a
22 local ordinance. A felony conviction of Section 11-501
23 of the Illinois Vehicle Code or a similar provision of
24 a local ordinance may not be sealed or expunged under
25 this subparagraph (E). Notwithstanding any provision
26 of this Act to the contrary, the Secretary of State

1 shall maintain orders of court supervision and
2 convictions of Section 11-501 of the Illinois Vehicle
3 Code or a similar provision of a local ordinance on
4 court purposes driving abstracts.

5 (b) Expungement.

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

19 (1.5) When a petitioner seeks to have a record of
20 arrest expunged under this Section, and the offender has
21 been convicted of a criminal offense, the State's Attorney
22 may object to the expungement on the grounds that the
23 records contain specific relevant information aside from
24 the mere fact of the arrest.

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

26 (A) When the arrest or charge not initiated by

1 arrest sought to be expunged resulted in an acquittal,
2 dismissal, the petitioner's release without charging,
3 or the reversal or vacation of a conviction, there is
4 no waiting period to petition for the expungement of
5 such records.

6 (B) When the arrest or charge not initiated by
7 arrest sought to be expunged resulted in an order of
8 supervision, successfully completed by the petitioner,
9 the following time frames will apply:

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

20 (i-5) Those arrests or charges that resulted
21 in orders of supervision for a misdemeanor
22 violation of subsection (a) of Section 11-503 of
23 the Illinois Vehicle Code or a similar provision
24 of a local ordinance, that occurred prior to the
25 offender reaching the age of 25 years and the
26 offender has no other conviction for violating

1 Section 11-501 or 11-503 of the Illinois Vehicle
2 Code or a similar provision of a local ordinance
3 shall not be eligible for expungement until the
4 petitioner has reached the age of 25 years.

5 (ii) Those arrests or charges that resulted in
6 orders of supervision for any other offenses shall
7 not be eligible for expungement until 2 years have
8 passed following the satisfactory termination of
9 the supervision.

10 (C) When the arrest or charge not initiated by
11 arrest sought to be expunged resulted in an order of
12 qualified probation, successfully completed by the
13 petitioner, such records shall not be eligible for
14 expungement until 5 years have passed following the
15 satisfactory termination of the probation.

16 (3) Those records maintained by the Illinois State
17 Police for persons arrested prior to their 17th birthday
18 shall be expunged as provided in Section 5-915 of the
19 Juvenile Court Act of 1987.

20 (4) Whenever a person has been arrested for or
21 convicted of any offense, in the name of a person whose
22 identity he or she has stolen or otherwise come into
23 possession of, the aggrieved person from whom the identity
24 was stolen or otherwise obtained without authorization,
25 upon learning of the person having been arrested using his
26 or her identity, may, upon verified petition to the chief

1 judge of the circuit wherein the arrest was made, have a
2 court order entered nunc pro tunc by the Chief Judge to
3 correct the arrest record, conviction record, if any, and
4 all official records of the arresting authority, the
5 Illinois State Police, other criminal justice agencies,
6 the prosecutor, and the trial court concerning such
7 arrest, if any, by removing his or her name from all such
8 records in connection with the arrest and conviction, if
9 any, and by inserting in the records the name of the
10 offender, if known or ascertainable, in lieu of the
11 aggrieved's name. The records of the circuit court clerk
12 shall be sealed until further order of the court upon good
13 cause shown and the name of the aggrieved person
14 obliterated on the official index required to be kept by
15 the circuit court clerk under Section 16 of the Clerks of
16 Courts Act, but the order shall not affect any index
17 issued by the circuit court clerk before the entry of the
18 order. Nothing in this Section shall limit the Illinois
19 State Police or other criminal justice agencies or
20 prosecutors from listing under an offender's name the
21 false names he or she has used.

22 (5) Whenever a person has been convicted of criminal
23 sexual assault, aggravated criminal sexual assault,
24 predatory criminal sexual assault of a child, criminal
25 sexual abuse, or aggravated criminal sexual abuse, the
26 victim of that offense may request that the State's

1 Attorney of the county in which the conviction occurred
2 file a verified petition with the presiding trial judge at
3 the petitioner's trial to have a court order entered to
4 seal the records of the circuit court clerk in connection
5 with the proceedings of the trial court concerning that
6 offense. However, the records of the arresting authority
7 and the Illinois State Police concerning the offense shall
8 not be sealed. The court, upon good cause shown, shall
9 make the records of the circuit court clerk in connection
10 with the proceedings of the trial court concerning the
11 offense available for public inspection.

12 (6) If a conviction has been set aside on direct
13 review or on collateral attack and the court determines by
14 clear and convincing evidence that the petitioner was
15 factually innocent of the charge, the court that finds the
16 petitioner factually innocent of the charge shall enter an
17 expungement order for the conviction for which the
18 petitioner has been determined to be innocent as provided
19 in subsection (b) of Section 5-5-4 of the Unified Code of
20 Corrections.

21 (7) Nothing in this Section shall prevent the Illinois
22 State Police from maintaining all records of any person
23 who is admitted to probation upon terms and conditions and
24 who fulfills those terms and conditions pursuant to
25 Section 10 of the Cannabis Control Act, Section 410 of the
26 Illinois Controlled Substances Act, Section 70 of the

1 Methamphetamine Control and Community Protection Act,
2 Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
3 Corrections, Section 12-4.3 or subdivision (b)(1) of
4 Section 12-3.05 of the Criminal Code of 1961 or the
5 Criminal Code of 2012, Section 10-102 of the Illinois
6 Alcoholism and Other Drug Dependency Act, Section 40-10 of
7 the Substance Use Disorder Act, or Section 10 of the
8 Steroid Control Act.

9 (8) If the petitioner has been granted a certificate
10 of innocence under Section 2-702 of the Code of Civil
11 Procedure, the court that grants the certificate of
12 innocence shall also enter an order expunging the
13 conviction for which the petitioner has been determined to
14 be innocent as provided in subsection (h) of Section 2-702
15 of the Code of Civil Procedure.

16 (c) Sealing.

17 (1) Applicability. Notwithstanding any other provision
18 of this Act to the contrary, and cumulative with any
19 rights to expungement of criminal records, this subsection
20 authorizes the sealing of criminal records of adults and
21 of minors prosecuted as adults. Subsection (g) of this
22 Section provides for immediate sealing of certain records.

23 (2) Eligible Records. The following records may be
24 sealed:

25 (A) All arrests resulting in release without
26 charging;

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

5 (C) Arrests or charges not initiated by arrest
6 resulting in orders of supervision, including orders
7 of supervision for municipal ordinance violations,
8 successfully completed by the petitioner, unless
9 excluded by subsection (a) (3);

10 (D) Arrests or charges not initiated by arrest
11 resulting in convictions, including convictions on
12 municipal ordinance violations, unless excluded by
13 subsection (a) (3);

14 (E) Arrests or charges not initiated by arrest
15 resulting in orders of first offender probation under
16 Section 10 of the Cannabis Control Act, Section 410 of
17 the Illinois Controlled Substances Act, Section 70 of
18 the Methamphetamine Control and Community Protection
19 Act, or Section 5-6-3.3 of the Unified Code of
20 Corrections; and

21 (F) Arrests or charges not initiated by arrest
22 resulting in felony convictions unless otherwise
23 excluded by subsection (a) paragraph (3) of this
24 Section.

25 (3) When Records Are Eligible to Be Sealed. Records
26 identified as eligible under subsection (c) (2) may be

1 sealed as follows:

2 (A) Records identified as eligible under
3 subsections ~~subsection~~ (c) (2) (A) and (c) (2) (B) may be
4 sealed at any time.

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

10 (C) Except as otherwise provided in subparagraph
11 (E) of this paragraph (3), records identified as
12 eligible under subsections (c) (2) (D), (c) (2) (E), and
13 (c) (2) (F) may be sealed 3 years after the termination
14 of the petitioner's last sentence (as defined in
15 subsection (a) (1) (F)). Convictions requiring public
16 registration under the Arsonist Registration Act, the
17 Sex Offender Registration Act, or the Murderer and
18 Violent Offender Against Youth Registration Act may
19 not be sealed until the petitioner is no longer
20 required to register under that relevant Act.

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

24 (E) Records identified as eligible under
25 subsection ~~subsections~~ (c) (2) (C), (c) (2) (D),
26 (c) (2) (E), or (c) (2) (F) may be sealed upon termination

1 of the petitioner's last sentence if the petitioner
2 earned a high school diploma, associate's degree,
3 career certificate, vocational technical
4 certification, or bachelor's degree, or passed the
5 high school level Test of General Educational
6 Development, during the period of his or her sentence
7 or mandatory supervised release. This subparagraph
8 shall apply only to a petitioner who has not completed
9 the same educational goal prior to the period of his or
10 her sentence or mandatory supervised release. If a
11 petition for sealing eligible records filed under this
12 subparagraph is denied by the court, the time periods
13 under subparagraph (B) or (C) shall apply to any
14 subsequent petition for sealing filed by the
15 petitioner.

16 (4) Subsequent felony convictions. A person may not
17 have subsequent felony conviction records sealed as
18 provided in this subsection (c) if he or she is convicted
19 of any felony offense after the date of the sealing of
20 prior felony convictions as provided in this subsection
21 (c). The court may, upon conviction for a subsequent
22 felony offense, order the unsealing of prior felony
23 conviction records previously ordered sealed by the court.

24 (5) Notice of eligibility for sealing. Upon entry of a
25 disposition for an eligible record under this subsection
26 (c), the petitioner shall be informed by the court of the

1 right to have the records sealed and the procedures for
2 the sealing of the records.

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

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

18 (1.5) County fee waiver pilot program. From August 9,
19 2019 (the effective date of Public Act 101-306) through
20 December 31, 2020, in a county of 3,000,000 or more
21 inhabitants, no fee shall be required to be paid by a
22 petitioner if the records sought to be expunged or sealed
23 were arrests resulting in release without charging or
24 arrests or charges not initiated by arrest resulting in
25 acquittal, dismissal, or conviction when the conviction
26 was reversed or vacated, unless excluded by subsection

1 (a) (3) (B). The provisions of this paragraph (1.5), other
2 than this sentence, are inoperative on and after January
3 1, 2022.

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

18 (3) Drug test. The petitioner must attach to the
19 petition proof that the petitioner has taken within 30
20 days before the filing of the petition a test showing the
21 absence within his or her body of all illegal substances
22 as defined by the Illinois Controlled Substances Act and
23 the Methamphetamine Control and Community Protection Act
24 if he or she is petitioning to:

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

26 (B) seal felony records for a violation of the

1 Illinois Controlled Substances Act, the
2 Methamphetamine Control and Community Protection Act,
3 or the Cannabis Control Act under clause (c) (2) (F);

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

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

7 (4) Service of petition. The circuit court clerk shall
8 promptly serve a copy of the petition and documentation to
9 support the petition under subsection (e-5) or (e-6) on
10 the State's Attorney or prosecutor charged with the duty
11 of prosecuting the offense, the Illinois State Police, the
12 arresting agency and the chief legal officer of the unit
13 of local government effecting the arrest.

14 (5) Objections.

15 (A) Any party entitled to notice of the petition
16 may file an objection to the petition. All objections
17 shall be in writing, shall be filed with the circuit
18 court clerk, and shall state with specificity the
19 basis of the objection. Whenever a person who has been
20 convicted of an offense is granted a pardon by the
21 Governor which specifically authorizes expungement, an
22 objection to the petition may not be filed.

23 (B) Objections to a petition to expunge or seal
24 must be filed within 60 days of the date of service of
25 the petition.

26 (6) Entry of order.

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

8 (B) Unless the State's Attorney or prosecutor, the
9 Illinois State Police, the arresting agency, or the
10 chief legal officer files an objection to the petition
11 to expunge or seal within 60 days from the date of
12 service of the petition, the court shall enter an
13 order granting or denying the petition.

14 (C) Notwithstanding any other provision of law,
15 the court shall not deny a petition for sealing under
16 this Section because the petitioner has not satisfied
17 an outstanding legal financial obligation established,
18 imposed, or originated by a court, law enforcement
19 agency, or a municipal, State, county, or other unit
20 of local government, including, but not limited to,
21 any cost, assessment, fine, or fee. An outstanding
22 legal financial obligation does not include any court
23 ordered restitution to a victim under Section 5-5-6 of
24 the Unified Code of Corrections, unless the
25 restitution has been converted to a civil judgment.
26 Nothing in this subparagraph (C) waives, rescinds, or

1 abrogates a legal financial obligation or otherwise
2 eliminates or affects the right of the holder of any
3 financial obligation to pursue collection under
4 applicable federal, State, or local law.

5 (D) Notwithstanding any other provision of law,
6 the court shall not deny a petition to expunge or seal
7 under this Section because the petitioner has
8 submitted a drug test taken within 30 days before the
9 filing of the petition to expunge or seal that
10 indicates a positive test for the presence of cannabis
11 within the petitioner's body. In this subparagraph
12 (D), "cannabis" has the meaning ascribed to it in
13 Section 3 of the Cannabis Control Act.

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

26 (A) the strength of the evidence supporting the

1 defendant's conviction;

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

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

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

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

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

21 (9) Implementation of order.

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

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

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

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

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

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

24 (i) the records shall be expunged (as defined
25 in subsection (a) (1) (E)) by the arresting agency
26 and any other agency as ordered by the court,

1 within 60 days of the date of service of the order,
2 unless a motion to vacate, modify, or reconsider
3 the order is filed pursuant to paragraph (12) of
4 subsection (d) of this Section;

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

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

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

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

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

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

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

24 (iii) the records shall be impounded by the
25 Illinois State Police within 60 days of the date
26 of service of the order as ordered by the court,

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

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

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

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

1 records ever existed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 arrest for the same or similar offense or for the purpose of
2 sentencing for any subsequent felony. Upon conviction for any
3 subsequent offense, the Department of Corrections shall have
4 access to all sealed records of the Illinois State Police
5 pertaining to that individual. Upon entry of the order of
6 sealing, the circuit court clerk shall promptly mail a copy of
7 the order to the person who was granted the certificate of
8 eligibility for sealing.

9 (e-6) Whenever a person who has been convicted of an
10 offense is granted a certificate of eligibility for
11 expungement by the Prisoner Review Board 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 petitioner'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
22 petitioner obliterated from the official index requested to be
23 kept by the circuit court clerk under Section 16 of the Clerks
24 of Courts Act in connection with the arrest and conviction for
25 the offense for which he or she had been granted the
26 certificate but the order shall not affect any index issued by

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

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

26 (g) Immediate Sealing.

1 (1) Applicability. Notwithstanding any other provision
2 of this Act to the contrary, and cumulative with any
3 rights to expungement or sealing of criminal records, this
4 subsection authorizes the immediate sealing of criminal
5 records of adults and of minors prosecuted as adults.

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

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

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

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

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

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

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

24 (D) Service of Petition. A copy of the petition
25 shall be served on the State's Attorney in open court.
26 The petitioner shall not be required to serve a copy of

1 the petition on any other agency.

2 (E) Entry of Order. The presiding trial judge
3 shall enter an order granting or denying the petition
4 for immediate sealing during the hearing in which it
5 is filed. Petitions for immediate sealing shall be
6 ruled on in the same hearing in which the final
7 disposition of the case is entered.

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

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

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

17 (I) Fees. The fee imposed by the circuit court
18 clerk and the Illinois State Police shall comply with
19 paragraph (1) of subsection (d) of this Section.

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

25 (K) Motion to Vacate, Modify, or Reconsider. Under
26 Section 2-1203 of the Code of Civil Procedure, the

1 petitioner, State's Attorney, or the Illinois State
2 Police may file a motion to vacate, modify, or
3 reconsider the order denying the petition to
4 immediately seal within 60 days of service of the
5 order. If filed more than 60 days after service of the
6 order, a petition to vacate, modify, or reconsider
7 shall comply with subsection (c) of Section 2-1401 of
8 the Code of Civil Procedure.

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

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

24 (h) Sealing; trafficking victims.

25 (1) A trafficking victim as defined by paragraph (10)
26 of subsection (a) of Section 10-9 of the Criminal Code of

1 2012 shall be eligible to petition for immediate sealing
2 of his or her criminal record upon the completion of his or
3 her last sentence if his or her participation in the
4 underlying offense was a direct result of human
5 trafficking under Section 10-9 of the Criminal Code of
6 2012 or a severe form of trafficking under the federal
7 Trafficking Victims Protection Act.

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

18 (3) If an objection is filed alleging that the
19 petitioner is not entitled to immediate sealing under this
20 subsection (h), the court shall conduct a hearing under
21 paragraph (7) of subsection (d) of this Section and the
22 court shall determine whether the petitioner is entitled
23 to immediate sealing under this subsection (h). A
24 petitioner is eligible for immediate relief under this
25 subsection (h) if he or she shows, by a preponderance of
26 the evidence, that: (A) he or she was a victim of human

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

6 (i) Minor Cannabis Offenses under the Cannabis Control
7 Act.

8 (1) Expungement of Arrest Records of Minor Cannabis
9 Offenses.

10 (A) The Illinois State Police and all law
11 enforcement agencies within the State shall
12 automatically expunge all criminal history records of
13 an arrest, charge not initiated by arrest, order of
14 supervision, or order of qualified probation for a
15 Minor Cannabis Offense committed prior to June 25,
16 2019 (the effective date of Public Act 101-27) if:

17 (i) One year or more has elapsed since the
18 date of the arrest or law enforcement interaction
19 documented in the records; and

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

25 (B) If the law enforcement agency is unable to
26 verify satisfaction of condition (ii) in paragraph

1 (A), records that satisfy condition (i) in paragraph
2 (A) shall be automatically expunged.

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

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

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

12 (iii) Records created prior to January 1, 2000
13 shall be automatically expunged prior to January
14 1, 2025.

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

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

1 individual.

2 (2) Pardons Authorizing Expungement of Minor Cannabis
3 Offenses.

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

9 (i) one or more convictions for a Minor
10 Cannabis Offense;

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

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

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

24 (i) The Prisoner Review Board shall notify the
25 State's Attorney of the county of conviction of
26 each record identified by State Police in

1 paragraph (2) (A) that is classified as a Class 4
2 felony. The State's Attorney may provide a written
3 objection to the Prisoner Review Board on the sole
4 basis that the record identified does not meet the
5 criteria established in paragraph (2) (A). Such an
6 objection must be filed within 60 days or by such
7 later date set by the Prisoner Review Board in the
8 notice after the State's Attorney received notice
9 from the Prisoner Review Board.

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

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

21 (C) If an individual has been granted a pardon
22 authorizing expungement as described in this Section,
23 the Prisoner Review Board, through the Attorney
24 General, shall file a petition for expungement with
25 the Chief Judge of the circuit or any judge of the
26 circuit designated by the Chief Judge where the

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

1 (D) Nothing in this Section is intended to
2 diminish or abrogate any rights or remedies otherwise
3 available to the individual.

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

1 (d) (9) (A) of this Section. An agency providing civil legal
2 aid, as defined by Section 15 of the Public Interest
3 Attorney Assistance Act, assisting individuals seeking to
4 file a motion to vacate and expunge under this subsection
5 may file motions to vacate and expunge with the Chief
6 Judge of a judicial circuit or any judge of the circuit
7 designated by the Chief Judge, and the motion may include
8 more than one individual. Motions filed by an agency
9 providing civil legal aid concerning more than one
10 individual may be prepared, presented, and signed
11 electronically.

12 (4) Any State's Attorney may file a motion to vacate
13 and expunge a conviction for a misdemeanor or Class 4
14 felony 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, and may include more than
19 one individual. Motions filed by a State's Attorney
20 concerning more than one individual may be prepared,
21 presented, and signed electronically. When considering
22 such a motion to vacate and expunge, a court shall
23 consider the following: the reasons to retain the records
24 provided by law enforcement, the individual's age, the
25 individual's age at the time of offense, the time since
26 the conviction, and the specific adverse consequences if

1 denied. Upon entry of an order granting a motion to vacate
2 and expunge records pursuant to this Section, the State's
3 Attorney shall notify the Prisoner Review Board within 30
4 days. Upon entry of the order of expungement, the circuit
5 court clerk shall promptly provide a copy of the order and
6 a certificate of disposition to the individual whose
7 records will be expunged to the individual's last known
8 address or by electronic means (if available) or otherwise
9 make available to the individual upon request. If a motion
10 to vacate and expunge is granted, the records shall be
11 expunged in accordance with subparagraphs (d)(8) and
12 (d)(9)(A) of this Section.

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

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

1 2019 (the effective date of Public Act 101-27) for an
2 offense that has been made eligible for expungement; (B)
3 the case is pending at the time; and (C) the person has not
4 been sentenced of the minor cannabis violation eligible
5 for expungement under this subsection, the court shall
6 consider the following: the reasons to retain the records
7 provided by law enforcement, the petitioner's age, the
8 petitioner's age at the time of offense, the time since
9 the conviction, and the specific adverse consequences if
10 denied. If a motion to dismiss and expunge is granted, the
11 records shall be expunged in accordance with subparagraph
12 (d) (9) (A) of this Section.

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

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

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

26 (10) Effect of Expungement. A person's right to

1 expunge an expungeable offense shall not be limited under
2 this Section. The effect of an order of expungement shall
3 be to restore the person to the status he or she occupied
4 before the arrest, charge, or conviction.

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

8 (j) Felony Prostitution Convictions.

9 (1) Any individual may file a motion to vacate and
10 expunge a conviction for a prior Class 4 felony violation
11 of prostitution. Motions to vacate and expunge under this
12 subsection (j) may be filed with the circuit court, Chief
13 Judge of a judicial circuit, or any judge of the circuit
14 designated by the Chief Judge. When considering the motion
15 to vacate and expunge, a court shall consider the
16 following:

17 (A) the reasons to retain the records provided by
18 law enforcement;

19 (B) the petitioner's age;

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

21 and

22 (D) the time since the conviction, and the
23 specific adverse consequences if denied. An individual
24 may file the petition after the completion of any
25 sentence or condition imposed by the conviction.
26 Within 60 days of the filing of the motion, a State's

1 Attorney may file an objection to the petition along
2 with supporting evidence. If a motion to vacate and
3 expunge is granted, the records shall be expunged in
4 accordance with subparagraph (d)(9)(A) of this
5 Section. An agency providing civil legal aid, as
6 defined in Section 15 of the Public Interest Attorney
7 Assistance Act, assisting individuals seeking to file
8 a motion to vacate and expunge under this subsection
9 may file motions to vacate and expunge with the Chief
10 Judge of a judicial circuit or any judge of the circuit
11 designated by the Chief Judge, and the motion may
12 include more than one individual.

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

21 (A) the reasons to retain the records provided by
22 law enforcement;

23 (B) the petitioner's age;

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

25 (D) the time since the conviction; and

26 (E) the specific adverse consequences if denied.

1 If the State's Attorney files a motion to vacate and
2 expunge records for felony prostitution convictions
3 pursuant to this Section, the State's Attorney shall
4 notify the Prisoner Review Board within 30 days of the
5 filing. If a motion to vacate and expunge is granted, the
6 records shall be expunged in accordance with subparagraph
7 (d) (9) (A) of this Section.

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

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

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

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

25 (7) Information. The Illinois State Police shall post
26 general information on its website about the expungement

1 process described in this subsection (j).
2 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
3 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
4 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;
5 102-558, 8-20-21; 102-639, eff. 8-27-21; 102-813, eff.
6 5-13-22; 102-933, eff. 1-1-23; revised 12-8-22.)