

# HB3321



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3321

Introduced 2/17/2023, by Rep. Justin Slaughter

### SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2

Amends the Criminal Identification Act. Provides that records included in a petition to expunge or seal that was previously denied are eligible to be expunged or sealed.

LRB103 30253 AWJ 56681 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 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 (D) Records included in a petition to expunge that  
25 was previously denied are eligible to be expunged  
26 under paragraphs (A) through (C) of this subsection.

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

5           (4) Whenever a person has been arrested for or  
6 convicted of any offense, in the name of a person whose  
7 identity he or she has stolen or otherwise come into  
8 possession of, the aggrieved person from whom the identity  
9 was stolen or otherwise obtained without authorization,  
10 upon learning of the person having been arrested using his  
11 or her identity, may, upon verified petition to the chief  
12 judge of the circuit wherein the arrest was made, have a  
13 court order entered nunc pro tunc by the Chief Judge to  
14 correct the arrest record, conviction record, if any, and  
15 all official records of the arresting authority, the  
16 Illinois State Police, other criminal justice agencies,  
17 the prosecutor, and the trial court concerning such  
18 arrest, if any, by removing his or her name from all such  
19 records in connection with the arrest and conviction, if  
20 any, and by inserting in the records the name of the  
21 offender, if known or ascertainable, in lieu of the  
22 aggrieved's name. The records of the circuit court clerk  
23 shall be sealed until further order of the court upon good  
24 cause shown and the name of the aggrieved person  
25 obliterated on the official index required to be kept by  
26 the circuit court clerk under Section 16 of the Clerks of

1 Courts Act, but the order shall not affect any index  
2 issued by the circuit court clerk before the entry of the  
3 order. Nothing in this Section shall limit the Illinois  
4 State Police or other criminal justice agencies or  
5 prosecutors from listing under an offender's name the  
6 false names he or she has used.

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

23 (6) If a conviction has been set aside on direct  
24 review or on collateral attack and the court determines by  
25 clear and convincing evidence that the petitioner was  
26 factually innocent of the charge, the court that finds the

1 petitioner factually innocent of the charge shall enter an  
2 expungement order for the conviction for which the  
3 petitioner has been determined to be innocent as provided  
4 in subsection (b) of Section 5-5-4 of the Unified Code of  
5 Corrections.

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

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

1 (c) Sealing.

2 (1) Applicability. Notwithstanding any other provision  
3 of this Act to the contrary, and cumulative with any  
4 rights to expungement of criminal records, this subsection  
5 authorizes the sealing of criminal records of adults and  
6 of minors prosecuted as adults. Subsection (g) of this  
7 Section provides for immediate sealing of certain records.

8 (2) Eligible Records. The following records may be  
9 sealed:

10 (A) All arrests resulting in release without  
11 charging;

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

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

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

25 (E) Arrests or charges not initiated by arrest  
26 resulting in orders of first offender probation under



1 Section 10 of the Cannabis Control Act, Section 410 of  
2 the Illinois Controlled Substances Act, Section 70 of  
3 the Methamphetamine Control and Community Protection  
4 Act, or Section 5-6-3.3 of the Unified Code of  
5 Corrections; and

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

10 (3) When Records Are Eligible to Be Sealed. Records  
11 identified as eligible under subsection (c)(2) may be  
12 sealed as follows:

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

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

21 (C) Except as otherwise provided in subparagraph  
22 (E) of this paragraph (3), records identified as  
23 eligible under subsections (c)(2)(D), (c)(2)(E), and  
24 (c)(2)(F) may be sealed 3 years after the termination  
25 of the petitioner's last sentence (as defined in  
26 subsection (a)(1)(F)). Convictions requiring public

1 registration under the Arsonist Registration Act, the  
2 Sex Offender Registration Act, or the Murderer and  
3 Violent Offender Against Youth Registration Act may  
4 not be sealed until the petitioner is no longer  
5 required to register under that relevant Act.

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

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

1           (F) Records included in a petition to seal that  
2           was previously denied are eligible to be sealed under  
3           paragraphs (A) through (E) of this subsection.

4           (4) Subsequent felony convictions. A person may not  
5           have subsequent felony conviction records sealed as  
6           provided in this subsection (c) if he or she is convicted  
7           of any felony offense after the date of the sealing of  
8           prior felony convictions as provided in this subsection  
9           (c). The court may, upon conviction for a subsequent  
10          felony offense, order the unsealing of prior felony  
11          conviction records previously ordered sealed by the court.

12          (5) Notice of eligibility for sealing. Upon entry of a  
13          disposition for an eligible record under this subsection  
14          (c), the petitioner shall be informed by the court of the  
15          right to have the records sealed and the procedures for  
16          the sealing of the records.

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

20          (1) Filing the petition. Upon becoming eligible to  
21          petition for the expungement or sealing of records under  
22          this Section, the petitioner shall file a petition  
23          requesting the expungement or sealing of records with the  
24          clerk of the court where the arrests occurred or the  
25          charges were brought, or both. If arrests occurred or  
26          charges were brought in multiple jurisdictions, a petition

1 must be filed in each such jurisdiction. The petitioner  
2 shall pay the applicable fee, except no fee shall be  
3 required if the petitioner has obtained a court order  
4 waiving fees under Supreme Court Rule 298 or it is  
5 otherwise waived.

6 (1.5) County fee waiver pilot program. From August 9,  
7 2019 (the effective date of Public Act 101-306) through  
8 December 31, 2020, in a county of 3,000,000 or more  
9 inhabitants, no fee shall be required to be paid by a  
10 petitioner if the records sought to be expunged or sealed  
11 were arrests resulting in release without charging or  
12 arrests or charges not initiated by arrest resulting in  
13 acquittal, dismissal, or conviction when the conviction  
14 was reversed or vacated, unless excluded by subsection  
15 (a)(3)(B). The provisions of this paragraph (1.5), other  
16 than this sentence, are inoperative on and after January  
17 1, 2022.

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

1 petitioner has received a certificate of eligibility for  
2 sealing from the Prisoner Review Board under paragraph  
3 (10) of subsection (a) of Section 3-3-2 of the Unified  
4 Code of Corrections, the certificate shall be attached to  
5 the petition.

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

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

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

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

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

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

1 of local government effecting the arrest.

2 (5) Objections.

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

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

14 (6) Entry of order.

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

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

1 order granting or denying the petition.

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

19 (D) Notwithstanding any other provision of law,  
20 the court shall not deny a petition to expunge or seal  
21 under this Section because the petitioner has  
22 submitted a drug test taken within 30 days before the  
23 filing of the petition to expunge or seal that  
24 indicates a positive test for the presence of cannabis  
25 within the petitioner's body. In this subparagraph  
26 (D), "cannabis" has the meaning ascribed to it in

1 Section 3 of the Cannabis Control Act.

2 (7) Hearings. If an objection is filed, the court  
3 shall set a date for a hearing and notify the petitioner  
4 and all parties entitled to notice of the petition of the  
5 hearing date at least 30 days prior to the hearing. Prior  
6 to the hearing, the State's Attorney shall consult with  
7 the Illinois State Police as to the appropriateness of the  
8 relief sought in the petition to expunge or seal. At the  
9 hearing, the court shall hear evidence on whether the  
10 petition should or should not be granted, and shall grant  
11 or deny the petition to expunge or seal the records based  
12 on the evidence presented at the hearing. The court may  
13 consider the following:

14 (A) the strength of the evidence supporting the  
15 defendant's conviction;

16 (B) the reasons for retention of the conviction  
17 records by the State;

18 (C) the petitioner's age, criminal record history,  
19 and employment history;

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

23 (E) the specific adverse consequences the  
24 petitioner may be subject to if the petition is  
25 denied.

26 (8) Service of order. After entering an order to



1 expunge or seal records, the court must provide copies of  
2 the order to the Illinois State Police, in a form and  
3 manner prescribed by the Illinois State Police, to the  
4 petitioner, to the State's Attorney or prosecutor charged  
5 with the duty of prosecuting the offense, to the arresting  
6 agency, to the chief legal officer of the unit of local  
7 government effecting the arrest, and to such other  
8 criminal justice agencies as may be ordered by the court.

9 (9) Implementation of order.

10 (A) Upon entry of an order to expunge records  
11 pursuant to subsection (b) (2) (A) or (b) (2) (B) (ii), or  
12 both:

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

21 (ii) the records of the circuit court clerk  
22 shall be impounded until further order of the  
23 court upon good cause shown and the name of the  
24 petitioner obliterated on the official index  
25 required to be kept by the circuit court clerk  
26 under Section 16 of the Clerks of Courts Act, but

1 the order shall not affect any index issued by the  
2 circuit court clerk before the entry of the order;  
3 and

4 (iii) in response to an inquiry for expunged  
5 records, the court, the Illinois State Police, or  
6 the agency receiving such inquiry, shall reply as  
7 it does in response to inquiries when no records  
8 ever existed.

9 (B) Upon entry of an order to expunge records  
10 pursuant to subsection (b) (2) (B) (i) or (b) (2) (C), or  
11 both:

12 (i) the records shall be expunged (as defined  
13 in subsection (a) (1) (E)) by the arresting agency  
14 and any other agency as ordered by the court,  
15 within 60 days of the date of service of the order,  
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 (ii) the records of the circuit court clerk  
20 shall be impounded until further order of the  
21 court upon good cause shown and the name of the  
22 petitioner obliterated on the official index  
23 required to be kept by the circuit court clerk  
24 under Section 16 of the Clerks of Courts Act, but  
25 the order shall not affect any index issued by the  
26 circuit court clerk before the entry of the order;

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

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

15 (v) in response to an inquiry for such records  
16 from anyone not authorized by law to access such  
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-5) Upon entry of an order to expunge records  
22 under subsection (e-6):

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

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

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

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

26 (v) in response to an inquiry for these

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

6 (C) Upon entry of an order to seal records under  
7 subsection (c), the arresting agency, any other agency  
8 as ordered by the court, the Illinois State Police,  
9 and the court shall seal the records (as defined in  
10 subsection (a)(1)(K)). In response to an inquiry for  
11 such records, from anyone not authorized by law to  
12 access such records, the court, the Illinois State  
13 Police, or the agency receiving such inquiry shall  
14 reply as it does in response to inquiries when no  
15 records ever existed.

16 (D) The Illinois State Police shall send written  
17 notice to the petitioner of its compliance with each  
18 order to expunge or seal records within 60 days of the  
19 date of service of that order or, if a motion to  
20 vacate, modify, or reconsider is filed, within 60 days  
21 of service of the order resolving the motion, if that  
22 order requires the Illinois State Police to expunge or  
23 seal records. In the event of an appeal from the  
24 circuit court order, the Illinois State Police shall  
25 send written notice to the petitioner of its  
26 compliance with an Appellate Court or Supreme Court

1 judgment to expunge or seal records within 60 days of  
2 the issuance of the court's mandate. The notice is not  
3 required while any motion to vacate, modify, or  
4 reconsider, or any appeal or petition for  
5 discretionary appellate review, is pending.

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

20 (F) Notwithstanding any other provision of this  
21 Section, a circuit court clerk may access a sealed  
22 record for the limited purpose of collecting payment  
23 for any legal financial obligations that were  
24 established, imposed, or originated in the criminal  
25 proceedings for which those records have been sealed.

26 (10) Fees. The Illinois State Police may charge the

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

19 (11) Final Order. No court order issued under the  
20 expungement or sealing provisions of this Section shall  
21 become final for purposes of appeal until 30 days after  
22 service of the order on the petitioner and all parties  
23 entitled to notice of the petition.

24 (12) Motion to Vacate, Modify, or Reconsider. Under  
25 Section 2-1203 of the Code of Civil Procedure, the  
26 petitioner or any party entitled to notice may file a

1 motion to vacate, modify, or reconsider the order granting  
2 or denying the petition to expunge or seal within 60 days  
3 of service of the order. If filed more than 60 days after  
4 service of the order, a petition to vacate, modify, or  
5 reconsider shall comply with subsection (c) of Section  
6 2-1401 of the Code of Civil Procedure. Upon filing of a  
7 motion to vacate, modify, or reconsider, notice of the  
8 motion shall be served upon the petitioner and all parties  
9 entitled to notice of the petition.

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

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



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

11           (16) The changes to this subsection (d) made by Public  
12 Act 98-163 apply to all petitions pending on August 5,  
13 2013 (the effective date of Public Act 98-163) and to all  
14 orders ruling on a petition to expunge or seal on or after  
15 August 5, 2013 (the effective date of Public Act 98-163).

16           (e) Whenever a person who has been convicted of an offense  
17 is granted a pardon by the Governor which specifically  
18 authorizes expungement, he or she may, upon verified petition  
19 to the Chief Judge of the circuit where the person had been  
20 convicted, any judge of the circuit designated by the Chief  
21 Judge, or in counties of less than 3,000,000 inhabitants, the  
22 presiding trial judge at the defendant's trial, have a court  
23 order entered expunging the record of arrest from the official  
24 records of the arresting authority and order that the records  
25 of the circuit court clerk and the Illinois State Police be  
26 sealed until further order of the court upon good cause shown

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

18 (e-5) Whenever a person who has been convicted of an  
19 offense is granted a certificate of eligibility for sealing by  
20 the Prisoner Review Board which specifically authorizes  
21 sealing, he or she may, upon verified petition to the Chief  
22 Judge of the circuit where the person had been convicted, any  
23 judge of the circuit designated by the Chief Judge, or in  
24 counties of less than 3,000,000 inhabitants, the presiding  
25 trial judge at the petitioner's trial, have a court order  
26 entered sealing the record of arrest from the official records

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

23 (e-6) Whenever a person who has been convicted of an  
24 offense is granted a certificate of eligibility for  
25 expungement by the Prisoner Review Board which specifically  
26 authorizes expungement, he or she may, upon verified petition

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

1 of eligibility for expungement.

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

14 (g) Immediate Sealing.

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

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

1 disposed.

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

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

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

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

1 at any time as authorized under subsection (c) (3) (A).

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

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

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

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

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

25 (G) Service of Order. An order to immediately seal  
26 eligible records shall be served in conformance with

1 subsection (d) (8).

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

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

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

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

23 (L) Effect of Order. An order granting an  
24 immediate sealing petition shall not be considered  
25 void because it fails to comply with the provisions of  
26 this Section or because of an error asserted in a



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

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

12 (h) Sealing; trafficking victims.

13 (1) A trafficking victim as defined by paragraph (10)  
14 of subsection (a) of Section 10-9 of the Criminal Code of  
15 2012 shall be eligible to petition for immediate sealing  
16 of his or her criminal record upon the completion of his or  
17 her last sentence if his or her participation in the  
18 underlying offense was a direct result of human  
19 trafficking under Section 10-9 of the Criminal Code of  
20 2012 or a severe form of trafficking under the federal  
21 Trafficking Victims Protection Act.

22 (2) A petitioner under this subsection (h), in  
23 addition to the requirements provided under paragraph (4)  
24 of subsection (d) of this Section, shall include in his or  
25 her petition a clear and concise statement that: (A) he or  
26 she was a victim of human trafficking at the time of the

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

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

20 (i) Minor Cannabis Offenses under the Cannabis Control  
21 Act.

22 (1) Expungement of Arrest Records of Minor Cannabis  
23 Offenses.

24 (A) The Illinois State Police and all law  
25 enforcement agencies within the State shall  
26 automatically expunge all criminal history records of

1 an arrest, charge not initiated by arrest, order of  
2 supervision, or order of qualified probation for a  
3 Minor Cannabis Offense committed prior to June 25,  
4 2019 (the effective date of Public Act 101-27) if:

5 (i) One year or more has elapsed since the  
6 date of the arrest or law enforcement interaction  
7 documented in the records; and

8 (ii) No criminal charges were filed relating  
9 to the arrest or law enforcement interaction or  
10 criminal charges were filed and subsequently  
11 dismissed or vacated or the arrestee was  
12 acquitted.

13 (B) If the law enforcement agency is unable to  
14 verify satisfaction of condition (ii) in paragraph  
15 (A), records that satisfy condition (i) in paragraph  
16 (A) shall be automatically expunged.

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

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

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

26 (iii) Records created prior to January 1, 2000

1 shall be automatically expunged prior to January  
2 1, 2025.

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

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

16 (2) Pardons Authorizing Expungement of Minor Cannabis  
17 Offenses.

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

23 (i) one or more convictions for a Minor  
24 Cannabis Offense;

25 (ii) the conviction identified in paragraph  
26 (2)(A)(i) did not include a penalty enhancement

1 under Section 7 of the Cannabis Control Act; and

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

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

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

24 (ii) In response to a written objection from a  
25 State's Attorney, the Prisoner Review Board is  
26 authorized to conduct a non-public hearing to

1 evaluate the information provided in the  
2 objection.

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

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

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

15 (D) Nothing in this Section is intended to  
16 diminish or abrogate any rights or remedies otherwise  
17 available to the individual.

18 (3) Any individual may file a motion to vacate and  
19 expunge a conviction for a misdemeanor or Class 4 felony  
20 violation of Section 4 or Section 5 of the Cannabis  
21 Control Act. Motions to vacate and expunge under this  
22 subsection (i) may be filed with the circuit court, Chief  
23 Judge of a judicial circuit or any judge of the circuit  
24 designated by the Chief Judge. The circuit court clerk  
25 shall promptly serve a copy of the motion to vacate and  
26 expunge, and any supporting documentation, on the State's

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

26 (4) Any State's Attorney may file a motion to vacate



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

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

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

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

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

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

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

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

22           (j) Felony Prostitution Convictions.

23           (1) Any individual may file a motion to vacate and  
24 expunge a conviction for a prior Class 4 felony violation  
25 of prostitution. Motions to vacate and expunge under this  
26 subsection (j) may be filed with the circuit court, Chief

1 Judge of a judicial circuit, or any judge of the circuit  
2 designated by the Chief Judge. When considering the motion  
3 to vacate and expunge, a court shall consider the  
4 following:

5 (A) the reasons to retain the records provided by  
6 law enforcement;

7 (B) the petitioner's age;

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

9 and

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

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

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

11                  (B) the petitioner's age;

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

13                  (D) the time since the conviction; and

14                  (E) the specific adverse consequences if denied.

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

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

26           (4) The Illinois State Police shall allow a person to

1 a use the access and review process, established in the  
2 Illinois State Police, for verifying that his or her  
3 records relating to felony prostitution eligible under  
4 this Section have been expunged.

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

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

16 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;  
17 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.  
18 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;  
19 102-558, 8-20-21; 102-639, eff. 8-27-21; 102-813, eff.  
20 5-13-22; 102-933, eff. 1-1-23; revised 12-8-22.)