



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1948

Introduced 2/9/2023, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/5.2	
720 ILCS 570/401	from Ch. 56 1/2, par. 1401
720 ILCS 570/402	from Ch. 56 1/2, par. 1402
720 ILCS 570/408	from Ch. 56 1/2, par. 1408
720 ILCS 646/55	
720 ILCS 646/60	
725 ILCS 5/116-2.2 new	
730 ILCS 5/5-6-3.7 new	

Amends the Criminal Identification Act. Provides that a petitioner may petition the circuit court to expunge the records of his or her arrests and charges not initiated by arrest when each arrest or charge not initiated by arrest sought to be expunged resulted in: (1) an order of misdemeanor diversion under the Unified Code of Corrections, and the diversion program was successfully completed by the petitioner; or (2) a conviction for possession of certain specified amounts of a controlled substance; (3) a conviction for possessing less than 5 grams of methamphetamine; or (4) a conviction where the statutory penalty changed as a result of a resentencing hearing under the Code of Criminal Procedure of 1963. Amends the Illinois Controlled Substances Act. Changes the penalties for the manufacture, delivery, or possession with intent to manufacture or deliver, or possession of a controlled substance. Amends the Methamphetamine Control and Community Protection Act. Changes the penalties for methamphetamine delivery or possession. Amends the Code of Criminal Procedure of 1963. Provides that a person serving a sentence, including a sentence of probation, for an offense for which the statutory penalty has been subsequently reduced under the amendatory Act to petition the trial court that entered the judgment of conviction to request resentencing in accordance with the statutory penalty in effect at the time of the filing of the petition. Amends the Unified Code of Corrections to create a Misdemeanor Diversion Program.

LRB103 28299 RLC 54678 b

1 AN ACT concerning criminal law.

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

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

12 (A) The following terms shall have the meanings
13 ascribed to them in the 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; (v) an order of

1 misdemeanor diversion under Section 5-6-3.7 of the Unified
2 Code of Corrections, and the diversion program was
3 successfully completed by the petitioner; (vi) a
4 conviction pursuant to subsection (a-5) of Section 402 of
5 the Illinois Controlled Substances Act; (vii) a conviction
6 pursuant to paragraph (1) of subsection (b) of Section 60
7 of the Methamphetamine Control and Community Protection
8 Act; or (viii) a conviction where the statutory penalty
9 changed as a result of a resentencing hearing pursuant to
10 Section 116-2.2 of the Code of Criminal Procedure of 1963.

11 (1.5) When a petitioner seeks to have a record of
12 arrest expunged under this Section, and the offender has
13 been convicted of a criminal offense, the State's Attorney
14 may object to the expungement on the grounds that the
15 records contain specific relevant information aside from
16 the mere fact of the arrest.

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

18 (A) When the arrest or charge not initiated by
19 arrest sought to be expunged resulted in an acquittal,
20 dismissal, the petitioner's release without charging,
21 or the reversal or vacation of a conviction, there is
22 no waiting period to petition for the expungement of
23 such records.

24 (B) When the arrest or charge not initiated by
25 arrest sought to be expunged resulted in an order of
26 supervision, successfully completed by the petitioner,

1 the following time frames will apply:

2 (i) Those arrests or charges that resulted in
3 orders of supervision under Section 3-707, 3-708,
4 3-710, or 5-401.3 of the Illinois Vehicle Code or
5 a similar provision of a local ordinance, or under
6 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
7 Code of 1961 or the Criminal Code of 2012, or a
8 similar provision of a local ordinance, shall not
9 be eligible for expungement until 5 years have
10 passed following the satisfactory termination of
11 the supervision.

12 (i-5) Those arrests or charges that resulted
13 in orders of supervision for a misdemeanor
14 violation of subsection (a) of Section 11-503 of
15 the Illinois Vehicle Code or a similar provision
16 of a local ordinance, that occurred prior to the
17 offender reaching the age of 25 years and the
18 offender has no other conviction for violating
19 Section 11-501 or 11-503 of the Illinois Vehicle
20 Code or a similar provision of a local ordinance
21 shall not be eligible for expungement until the
22 petitioner has reached the age of 25 years.

23 (ii) Those arrests or charges that resulted in
24 orders of supervision for any other offenses shall
25 not be eligible for expungement until 2 years have
26 passed following the satisfactory termination of

1 the supervision.

2 (C) When the arrest or charge not initiated by
3 arrest sought to be expunged resulted in an order of
4 qualified probation, successfully completed by the
5 petitioner, such records shall not be eligible for
6 expungement until 5 years have passed following the
7 satisfactory termination of the probation.

8 (D) When the arrest or charge not initiated by
9 arrest sought to be expunged, pursuant to subparagraph
10 (viii) of paragraph (1) of this subsection (b)
11 resulted in a sentence of probation, successfully
12 completed by the petitioner, or incarceration in an
13 Illinois county jail or in the Illinois Department of
14 Corrections, such records shall not be eligible for
15 expungement until 5 years have passed following the
16 satisfactory termination of probation.

17 (E) When the arrest or charge not initiated by
18 arrest sought to be expunged pursuant to subparagraph
19 (vi) or (vii) of paragraph (1) of this subsection (b)
20 resulted in a sentence of incarceration in an Illinois
21 county jail, such records shall not be eligible for
22 expungement until 5 years have passed following the
23 completion of the sentence.

24 (3) Those records maintained by the Illinois State
25 Police for persons arrested prior to their 17th birthday
26 shall be expunged as provided in Section 5-915 of the

1 Juvenile Court Act of 1987.

2 (4) Whenever a person has been arrested for or
3 convicted of any offense, in the name of a person whose
4 identity he or she has stolen or otherwise come into
5 possession of, the aggrieved person from whom the identity
6 was stolen or otherwise obtained without authorization,
7 upon learning of the person having been arrested using his
8 or her identity, may, upon verified petition to the chief
9 judge of the circuit wherein the arrest was made, have a
10 court order entered nunc pro tunc by the Chief Judge to
11 correct the arrest record, conviction record, if any, and
12 all official records of the arresting authority, the
13 Illinois State Police, other criminal justice agencies,
14 the prosecutor, and the trial court concerning such
15 arrest, if any, by removing his or her name from all such
16 records in connection with the arrest and conviction, if
17 any, and by inserting in the records the name of the
18 offender, if known or ascertainable, in lieu of the
19 aggrieved's name. The records of the circuit court clerk
20 shall be sealed until further order of the court upon good
21 cause shown and the name of the aggrieved person
22 obliterated on the official index required to be kept by
23 the circuit court clerk under Section 16 of the Clerks of
24 Courts Act, but the order shall not affect any index
25 issued by the circuit court clerk before the entry of the
26 order. Nothing in this Section shall limit the Illinois

1 State Police or other criminal justice agencies or
2 prosecutors from listing under an offender's name the
3 false names he or she has used.

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

20 (6) If a conviction has been set aside on direct
21 review or on collateral attack and the court determines by
22 clear and convincing evidence that the petitioner was
23 factually innocent of the charge, the court that finds the
24 petitioner factually innocent of the charge shall enter an
25 expungement order for the conviction for which the
26 petitioner has been determined to be innocent as provided

1 in subsection (b) of Section 5-5-4 of the Unified Code of
2 Corrections.

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

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

24 (c) Sealing.

25 (1) Applicability. Notwithstanding any other provision
26 of this Act to the contrary, and cumulative with any

1 rights to expungement of criminal records, this subsection
2 authorizes the sealing of criminal records of adults and
3 of minors prosecuted as adults. Subsection (g) of this
4 Section provides for immediate sealing of certain records.

5 (2) Eligible Records. The following records may be
6 sealed:

7 (A) All arrests resulting in release without
8 charging;

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

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

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

22 (E) Arrests or charges not initiated by arrest
23 resulting in orders of first offender probation under
24 Section 10 of the Cannabis Control Act, Section 410 of
25 the Illinois Controlled Substances Act, Section 70 of
26 the Methamphetamine Control and Community Protection

1 Act, or Section 5-6-3.3 of the Unified Code of
2 Corrections; and

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

7 (G) Arrests or charges not initiated by arrest
8 resulting in orders of misdemeanor diversion under
9 Section 5-6-3.7 of the Unified Code of Corrections,
10 successfully completed by the petitioner.

11 (H) Arrests or charges not initiated by arrest
12 resulting in probation, pursuant to subparagraph
13 (viii) of paragraph (1) of subsection (b),
14 successfully completed by the petitioner, or
15 imprisonment in an Illinois County jail or in the
16 Illinois Department of Corrections; and

17 (I) Arrests or charges not initiated by arrest
18 resulting in incarceration in an Illinois county jail,
19 pursuant to subparagraphs (vi) or (vii) of paragraph
20 (1) of subsection (b), unless excluded by paragraph
21 (3) of subsection (a).

22 (3) When Records Are Eligible to Be Sealed. Records
23 identified as eligible under subsection (c)(2) may be
24 sealed as follows:

25 (A) Records identified as eligible under
26 subsections ~~subsection~~ (c)(2)(A) and (c)(2)(B) may be

1 sealed at any time.

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

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

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

22 (E) Records identified as eligible under
23 subsection ~~subsections~~ (c)(2)(C), (c)(2)(D),
24 (c)(2)(E), or (c)(2)(F) may be sealed upon termination
25 of the petitioner's last sentence if the petitioner
26 earned a high school diploma, associate's degree,

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

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

22 (5) Notice of eligibility for sealing. Upon entry of a
23 disposition for an eligible record under this subsection
24 (c), the petitioner shall be informed by the court of the
25 right to have the records sealed and the procedures for
26 the sealing of the records.

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

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

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

1 1, 2022.

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

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

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

24 (B) seal felony records for a violation of the
25 Illinois Controlled Substances Act, the
26 Methamphetamine Control and Community Protection Act,

1 or the Cannabis Control Act under clause (c) (2) (F);
2 (C) seal felony records under subsection (e-5); or
3 (D) expunge felony records of a qualified
4 probation under clause (b) (1) (iv).

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

12 (5) Objections.

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

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

24 (6) Entry of order.

25 (A) The Chief Judge of the circuit wherein the
26 charge was brought, any judge of that circuit

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

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

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

1 financial obligation to pursue collection under
2 applicable federal, State, or local law.

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

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

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

26 (B) the reasons for retention of the conviction

1 records by the State;

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

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

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

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

19 (9) Implementation of order.

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

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

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

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

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

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

1 the order is filed pursuant to paragraph (12) of
2 subsection (d) of this Section;

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

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

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

25 (v) in response to an inquiry for such records
26 from anyone not authorized by law to access such

1 records, the court, the Illinois State Police, or
2 the agency receiving such inquiry shall reply as
3 it does in response to inquiries when no records
4 ever existed.

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

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

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

22 (iii) the records shall be impounded by the
23 Illinois State Police within 60 days of the date
24 of service of the order as ordered by the court,
25 unless a motion to vacate, modify, or reconsider
26 the order is filed under paragraph (12) of

1 subsection (d) of this Section;

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

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

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

26 (D) The Illinois State Police shall send written

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

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

1 of the Clerks of Courts Act and shall be immediately
2 re-impounded upon the collection of the outstanding
3 financial obligations.

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

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

1 previously sealed under this Section, the fee for the
2 expungement petition for that same record shall be waived.

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

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

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

1 modify, or reconsider its terms based on a motion filed
2 under paragraph (12) of this subsection (d).

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

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

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

26 (e) Whenever a person who has been convicted of an offense

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

1 the person who was pardoned.

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

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

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

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

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

24 (g) Immediate Sealing.

25 (1) Applicability. Notwithstanding any other provision
26 of this Act to the contrary, and cumulative with any

1 rights to expungement or sealing of criminal records, this
2 subsection authorizes the immediate sealing of criminal
3 records of adults and of minors prosecuted as adults.

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

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

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

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

25 (A) Filing the Petition. Upon entry of the final
26 disposition of the case, the defendant's attorney may

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

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

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

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

26 (E) Entry of Order. The presiding trial judge

1 shall enter an order granting or denying the petition
2 for immediate sealing during the hearing in which it
3 is filed. Petitions for immediate sealing shall be
4 ruled on in the same hearing in which the final
5 disposition of the case is entered.

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

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

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

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

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

23 (K) Motion to Vacate, Modify, or Reconsider. Under
24 Section 2-1203 of the Code of Civil Procedure, the
25 petitioner, State's Attorney, or the Illinois State
26 Police may file a motion to vacate, modify, or

1 reconsider the order denying the petition to
2 immediately seal within 60 days of service of the
3 order. If filed more than 60 days after service of the
4 order, a petition to vacate, modify, or reconsider
5 shall comply with subsection (c) of Section 2-1401 of
6 the Code of Civil Procedure.

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

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

22 (h) Sealing; trafficking victims.

23 (1) A trafficking victim as defined by paragraph (10)
24 of subsection (a) of Section 10-9 of the Criminal Code of
25 2012 shall be eligible to petition for immediate sealing
26 of his or her criminal record upon the completion of his or

1 her last sentence if his or her participation in the
2 underlying offense was a direct result of human
3 trafficking under Section 10-9 of the Criminal Code of
4 2012 or a severe form of trafficking under the federal
5 Trafficking Victims Protection Act.

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

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

1 human trafficking under Section 10-9 of the Criminal Code
2 of 2012 or a severe form of trafficking under the federal
3 Trafficking Victims Protection Act.

4 (i) Minor Cannabis Offenses under the Cannabis Control
5 Act.

6 (1) Expungement of Arrest Records of Minor Cannabis
7 Offenses.

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

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

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

23 (B) If the law enforcement agency is unable to
24 verify satisfaction of condition (ii) in paragraph
25 (A), records that satisfy condition (i) in paragraph
26 (A) shall be automatically expunged.

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

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

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

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

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

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

26 (2) Pardons Authorizing Expungement of Minor Cannabis

1 Offenses.

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

7 (i) one or more convictions for a Minor
8 Cannabis Offense;

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

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

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

22 (i) The Prisoner Review Board shall notify the
23 State's Attorney of the county of conviction of
24 each record identified by State Police in
25 paragraph (2)(A) that is classified as a Class 4
26 felony. The State's Attorney may provide a written

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

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

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

19 (C) If an individual has been granted a pardon
20 authorizing expungement as described in this Section,
21 the Prisoner Review Board, through the Attorney
22 General, shall file a petition for expungement with
23 the Chief Judge of the circuit or any judge of the
24 circuit designated by the Chief Judge where the
25 individual had been convicted. Such petition may
26 include more than one individual. Whenever an

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

25 (D) Nothing in this Section is intended to
26 diminish or abrogate any rights or remedies otherwise

1 available to the individual.

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

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

10 (4) Any State's Attorney may file a motion to vacate
11 and expunge a conviction for a misdemeanor or Class 4
12 felony violation of Section 4 or Section 5 of the Cannabis
13 Control Act. Motions to vacate and expunge under this
14 subsection (i) may be filed with the circuit court, Chief
15 Judge of a judicial circuit or any judge of the circuit
16 designated by the Chief Judge, and may include more than
17 one individual. Motions filed by a State's Attorney
18 concerning more than one individual may be prepared,
19 presented, and signed electronically. When considering
20 such a motion to vacate and expunge, a court shall
21 consider the following: the reasons to retain the records
22 provided by law enforcement, the individual's age, the
23 individual's age at the time of offense, the time since
24 the conviction, and the specific adverse consequences if
25 denied. Upon entry of an order granting a motion to vacate
26 and expunge records pursuant to this Section, the State's

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

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

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

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

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

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

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

24 (10) Effect of Expungement. A person's right to
25 expunge an expungeable offense shall not be limited under
26 this Section. The effect of an order of expungement shall

1 be to restore the person to the status he or she occupied
2 before the arrest, charge, or conviction.

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

6 (j) Felony Prostitution Convictions.

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

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

17 (B) the petitioner's age;

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

20 (D) the time since the conviction, and the
21 specific adverse consequences if denied. An individual
22 may file the petition after the completion of any
23 sentence or condition imposed by the conviction.
24 Within 60 days of the filing of the motion, a State's
25 Attorney may file an objection to the petition along
26 with supporting evidence. If a motion to vacate and

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

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

19 (A) the reasons to retain the records provided by
20 law enforcement;

21 (B) the petitioner's age;

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

23 (D) the time since the conviction; and

24 (E) the specific adverse consequences if denied.

25 If the State's Attorney files a motion to vacate and
26 expunge records for felony prostitution convictions

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

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

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

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

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

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

26 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;

1 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.
2 12-4-19; 101-645, eff. 6-26-20; 102-145, eff. 7-23-21;
3 102-558, 8-20-21; 102-639, eff. 8-27-21; 102-813, eff.
4 5-13-22; 102-933, eff. 1-1-23; revised 12-8-22.)

5 Section 10. The Illinois Controlled Substances Act is
6 amended by changing Sections 401, 402, and 408 as follows:

7 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

8 Sec. 401. Manufacture or delivery, or possession with
9 intent to manufacture or deliver, a controlled substance, a
10 counterfeit substance, or controlled substance analog. Except
11 as authorized by this Act, it is unlawful for any person
12 knowingly to manufacture or deliver, or possess with intent to
13 manufacture or deliver, a controlled substance other than
14 methamphetamine and other than bath salts as defined in the
15 Bath Salts Prohibition Act sold or offered for sale in a retail
16 mercantile establishment as defined in Section 16-0.1 of the
17 Criminal Code of 2012, a counterfeit substance, or a
18 controlled substance analog. A violation of this Act with
19 respect to each of the controlled substances listed herein
20 constitutes a single and separate violation of this Act. For
21 purposes of this Section, "controlled substance analog" or
22 "analog" means a substance, other than a controlled substance,
23 which is not approved by the United States Food and Drug
24 Administration or, if approved, is not dispensed or possessed

1 in accordance with State or federal law, and that has a
2 chemical structure substantially similar to that of a
3 controlled substance in Schedule I or II, or that was
4 specifically designed to produce an effect substantially
5 similar to that of a controlled substance in Schedule I or II.
6 Examples of chemical classes in which controlled substance
7 analogs are found include, but are not limited to, the
8 following: phenethylamines, N-substituted piperidines,
9 morphinans, ecgonines, quinazolinones, substituted indoles,
10 and arylcycloalkylamines. For purposes of this Act, a
11 controlled substance analog shall be treated in the same
12 manner as the controlled substance to which it is
13 substantially similar.

14 (a) Any person who violates this Section with respect to
15 the following amounts of controlled or counterfeit substances
16 or controlled substance analogs, notwithstanding any of the
17 provisions of subsections (c), (d), (e), (f), (g) or (h) to the
18 contrary, is guilty of a Class X felony and shall be sentenced
19 to a term of imprisonment as provided in this subsection (a)
20 and fined as provided in subsection (b):

21 (1) (A) not less than 6 years and not more than 30 years
22 with respect to 15 grams or more but less than 100 grams of
23 a substance containing heroin, or an analog thereof;

24 (B) not less than 9 years and not more than 40 years
25 with respect to 100 grams or more but less than 400 grams
26 of a substance containing heroin, or an analog thereof;

1 (C) not less than 12 years and not more than 50 years
2 with respect to 400 grams or more but less than 900 grams
3 of a substance containing heroin, or an analog thereof;

4 (D) not less than 15 years and not more than 60 years
5 with respect to 900 grams or more of any substance
6 containing heroin, or an analog thereof;

7 (1.5) (A) not less than 6 years and not more than 30
8 years with respect to 15 grams or more but less than 100
9 grams of a substance containing fentanyl, or an analog
10 thereof;

11 (B) not less than 9 years and not more than 40 years
12 with respect to 100 grams or more but less than 400 grams
13 of a substance containing fentanyl, or an analog thereof;

14 (C) not less than 12 years and not more than 50 years
15 with respect to 400 grams or more but less than 900 grams
16 of a substance containing fentanyl, or an analog thereof;

17 (D) not less than 15 years and not more than 60 years
18 with respect to 900 grams or more of a substance
19 containing fentanyl, or an analog thereof;

20 (2) (A) not less than 6 years and not more than 30 years
21 with respect to 15 grams or more but less than 100 grams of
22 a substance containing cocaine, or an analog thereof;

23 (B) not less than 9 years and not more than 40 years
24 with respect to 100 grams or more but less than 400 grams
25 of a substance containing cocaine, or an analog thereof;

26 (C) not less than 12 years and not more than 50 years

1 with respect to 400 grams or more but less than 900 grams
2 of a substance containing cocaine, or an analog thereof;

3 (D) not less than 15 years and not more than 60 years
4 with respect to 900 grams or more of any substance
5 containing cocaine, or an analog thereof;

6 (3) (A) not less than 6 years and not more than 30 years
7 with respect to 15 grams or more but less than 100 grams of
8 a substance containing morphine, or an analog thereof;

9 (B) not less than 9 years and not more than 40 years
10 with respect to 100 grams or more but less than 400 grams
11 of a substance containing morphine, or an analog thereof;

12 (C) not less than 12 years and not more than 50 years
13 with respect to 400 grams or more but less than 900 grams
14 of a substance containing morphine, or an analog thereof;

15 (D) not less than 15 years and not more than 60 years
16 with respect to 900 grams or more of a substance
17 containing morphine, or an analog thereof;

18 (4) 200 grams or more of any substance containing
19 peyote, or an analog thereof;

20 (5) 200 grams or more of any substance containing a
21 derivative of barbituric acid or any of the salts of a
22 derivative of barbituric acid, or an analog thereof;

23 (6) 200 grams or more of any substance containing
24 amphetamine or any salt of an optical isomer of
25 amphetamine, or an analog thereof;

26 (6.5) (blank);

1 (6.6) (blank);

2 (7) (A) not less than 6 years and not more than 30 years
3 with respect to: (i) 15 grams or more but less than 100
4 grams of a substance containing lysergic acid diethylamide
5 (LSD), or an analog thereof, or (ii) 15 or more objects or
6 15 or more segregated parts of an object or objects but
7 less than 200 objects or 200 segregated parts of an object
8 or objects containing in them or having upon them any
9 amounts of any substance containing lysergic acid
10 diethylamide (LSD), or an analog thereof;

11 (B) not less than 9 years and not more than 40 years
12 with respect to: (i) 100 grams or more but less than 400
13 grams of a substance containing lysergic acid diethylamide
14 (LSD), or an analog thereof, or (ii) 200 or more objects or
15 200 or more segregated parts of an object or objects but
16 less than 600 objects or less than 600 segregated parts of
17 an object or objects containing in them or having upon
18 them any amount of any substance containing lysergic acid
19 diethylamide (LSD), or an analog thereof;

20 (C) not less than 12 years and not more than 50 years
21 with respect to: (i) 400 grams or more but less than 900
22 grams of a substance containing lysergic acid diethylamide
23 (LSD), or an analog thereof, or (ii) 600 or more objects or
24 600 or more segregated parts of an object or objects but
25 less than 1500 objects or 1500 segregated parts of an
26 object or objects containing in them or having upon them

1 any amount of any substance containing lysergic acid
2 diethylamide (LSD), or an analog thereof;

3 (D) not less than 15 years and not more than 60 years
4 with respect to: (i) 900 grams or more of any substance
5 containing lysergic acid diethylamide (LSD), or an analog
6 thereof, or (ii) 1500 or more objects or 1500 or more
7 segregated parts of an object or objects containing in
8 them or having upon them any amount of a substance
9 containing lysergic acid diethylamide (LSD), or an analog
10 thereof;

11 (7.5) (A) not less than 6 years and not more than 30 years
12 with respect to: (i) 15 grams or more but less than 100
13 grams of a substance listed in paragraph (1), (2), (2.1),
14 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or
15 (26) of subsection (d) of Section 204, or an analog or
16 derivative thereof, or (ii) 15 or more pills, tablets,
17 caplets, capsules, or objects but less than 200 pills,
18 tablets, caplets, capsules, or objects containing in them
19 or having upon them any amounts of any substance listed in
20 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
21 (20.1), (21), (25), or (26) of subsection (d) of Section
22 204, or an analog or derivative thereof;

23 (B) not less than 9 years and not more than 40 years
24 with respect to: (i) 100 grams or more but less than 400
25 grams of a substance listed in paragraph (1), (2), (2.1),
26 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or

1 (26) of subsection (d) of Section 204, or an analog or
2 derivative thereof, or (ii) 200 or more pills, tablets,
3 caplets, capsules, or objects but less than 600 pills,
4 tablets, caplets, capsules, or objects containing in them
5 or having upon them any amount of any substance listed in
6 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
7 (20.1), (21), (25), or (26) of subsection (d) of Section
8 204, or an analog or derivative thereof;

9 (C) not less than 12 years and not more than 50 years
10 with respect to: (i) 400 grams or more but less than 900
11 grams of a substance listed in paragraph (1), (2), (2.1),
12 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or
13 (26) of subsection (d) of Section 204, or an analog or
14 derivative thereof, or (ii) 600 or more pills, tablets,
15 caplets, capsules, or objects but less than 1,500 pills,
16 tablets, caplets, capsules, or objects containing in them
17 or having upon them any amount of any substance listed in
18 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
19 (20.1), (21), (25), or (26) of subsection (d) of Section
20 204, or an analog or derivative thereof;

21 (D) not less than 15 years and not more than 60 years
22 with respect to: (i) 900 grams or more of any substance
23 listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1),
24 (19), (20), (20.1), (21), (25), or (26) of subsection (d)
25 of Section 204, or an analog or derivative thereof, or
26 (ii) 1,500 or more pills, tablets, caplets, capsules, or

1 objects containing in them or having upon them any amount
2 of a substance listed in paragraph (1), (2), (2.1), (2.2),
3 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of
4 subsection (d) of Section 204, or an analog or derivative
5 thereof;

6 (8) 30 grams or more of any substance containing
7 pentazocine or any of the salts, isomers and salts of
8 isomers of pentazocine, or an analog thereof;

9 (9) 30 grams or more of any substance containing
10 methaqualone or any of the salts, isomers and salts of
11 isomers of methaqualone, or an analog thereof;

12 (10) 30 grams or more of any substance containing
13 phencyclidine or any of the salts, isomers and salts of
14 isomers of phencyclidine (PCP), or an analog thereof;

15 (10.5) 30 grams or more of any substance containing
16 ketamine or any of the salts, isomers and salts of isomers
17 of ketamine, or an analog thereof;

18 (10.6) 100 grams or more of any substance containing
19 hydrocodone, or any of the salts, isomers and salts of
20 isomers of hydrocodone, or an analog thereof;

21 (10.7) (blank);

22 (10.8) 100 grams or more of any substance containing
23 dihydrocodeine, or any of the salts, isomers and salts of
24 isomers of dihydrocodeine, or an analog thereof;

25 (10.9) 100 grams or more of any substance containing
26 oxycodone, or any of the salts, isomers and salts of

1 isomers of oxycodone, or an analog thereof;

2 (11) 200 grams or more of any substance containing any
3 other controlled substance classified in Schedules I or
4 II, or an analog thereof, which is not otherwise included
5 in this subsection.

6 (b) Any person sentenced with respect to violations of
7 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)
8 involving 100 grams or more of the controlled substance named
9 therein, may in addition to the penalties provided therein, be
10 fined an amount not more than \$500,000 or the full street value
11 of the controlled or counterfeit substance or controlled
12 substance analog, whichever is greater. The term "street
13 value" shall have the meaning ascribed in Section 110-5 of the
14 Code of Criminal Procedure of 1963. Any person sentenced with
15 respect to any other provision of subsection (a), may in
16 addition to the penalties provided therein, be fined an amount
17 not to exceed \$500,000.

18 (b-1) Excluding violations of this Act when the controlled
19 substance is fentanyl, any person sentenced to a term of
20 imprisonment with respect to violations of Section 401, 401.1,
21 405, 405.1, 405.2, or 407, when the substance containing the
22 controlled substance contains any amount of fentanyl, 3 years
23 shall be added to the term of imprisonment imposed by the
24 court, and the maximum sentence for the offense shall be
25 increased by 3 years.

26 (c) Any person who violates this Section with regard to

1 the following amounts of controlled or counterfeit substances
2 or controlled substance analogs, notwithstanding any of the
3 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
4 to the contrary, is guilty of a Class 1 felony. The fine for
5 violation of this subsection (c) shall not be more than
6 \$250,000:

7 (1) 3 grams ~~1 gram~~ or more but less than 15 grams of
8 any substance containing heroin, or an analog thereof;

9 (1.5) 3 grams ~~1 gram~~ or more but less than 15 grams of
10 any substance containing fentanyl, or an analog thereof;

11 (2) 5 grams ~~1 gram~~ or more but less than 15 grams of
12 any substance containing cocaine, or an analog thereof;

13 (3) 4 ~~10~~ grams or more but less than 15 grams of any
14 substance containing morphine, or an analog thereof;

15 (4) 50 grams or more but less than 200 grams of any
16 substance containing peyote, or an analog thereof;

17 (5) 50 grams or more but less than 200 grams of any
18 substance containing a derivative of barbituric acid or
19 any of the salts of a derivative of barbituric acid, or an
20 analog thereof;

21 (6) 50 grams or more but less than 200 grams of any
22 substance containing amphetamine or any salt of an optical
23 isomer of amphetamine, or an analog thereof;

24 (6.5) (blank);

25 (7) (i) one gram ~~5 grams~~ or more but less than 15 grams
26 of any substance containing lysergic acid diethylamide

1 (LSD), or an analog thereof, or (ii) more than 40 ~~10~~
2 objects or more than 40 ~~10~~ segregated parts of an object or
3 objects but less than 100 ~~15~~ objects or less than 100 ~~15~~
4 segregated parts of an object containing in them or having
5 upon them any amount of any substance containing lysergic
6 acid diethylamide (LSD), or an analog thereof;

7 (7.5) (i) 2 ~~5~~ grams or more but less than 15 grams of
8 any substance listed in paragraph (1), (2), (2.1), (2.2),
9 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of
10 subsection (d) of Section 204, or an analog or derivative
11 thereof, or (ii) 5 or more ~~than 10~~ pills, tablets,
12 caplets, capsules, or objects ~~but less than 15 pills,~~
13 ~~tablets, caplets, capsules, or objects~~ containing in them
14 or having upon them any amount of any substance listed in
15 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
16 (20.1), (21), (25), or (26) of subsection (d) of Section
17 204, or an analog or derivative thereof;

18 (8) 10 grams or more but less than 30 grams of any
19 substance containing pentazocine or any of the salts,
20 isomers and salts of isomers of pentazocine, or an analog
21 thereof;

22 (9) 10 grams or more but less than 30 grams of any
23 substance containing methaqualone or any of the salts,
24 isomers and salts of isomers of methaqualone, or an analog
25 thereof;

26 (10) 10 grams or more but less than 30 grams of any

1 substance containing phencyclidine or any of the salts,
2 isomers and salts of isomers of phencyclidine (PCP), or an
3 analog thereof;

4 (10.5) 10 grams or more but less than 30 grams of any
5 substance containing ketamine or any of the salts, isomers
6 and salts of isomers of ketamine, or an analog thereof;

7 (10.6) 50 grams or more but less than 100 grams of any
8 substance containing hydrocodone, or any of the salts,
9 isomers and salts of isomers of hydrocodone, or an analog
10 thereof;

11 (10.7) (blank);

12 (10.8) 50 grams or more but less than 100 grams of any
13 substance containing dihydrocodeine, or any of the salts,
14 isomers and salts of isomers of dihydrocodeine, or an
15 analog thereof;

16 (10.9) 50 grams or more but less than 100 grams of any
17 substance containing oxycodone, or any of the salts,
18 isomers and salts of isomers of oxycodone, or an analog
19 thereof;

20 (11) 50 grams or more but less than 200 grams of any
21 substance containing a substance classified in Schedules I
22 or II, or an analog thereof, which is not otherwise
23 included in this subsection.

24 (c-5) (Blank).

25 (d) Any person who violates this Section with regard to
26 any other amount of a controlled or counterfeit substance

1 containing dihydrocodeine or classified in Schedules I or II,
2 or an analog thereof, which is (i) a narcotic drug, (ii)
3 lysergic acid diethylamide (LSD) or an analog thereof, (iii)
4 any substance containing amphetamine or fentanyl or any salt
5 or optical isomer of amphetamine or fentanyl, or an analog
6 thereof, or (iv) any substance containing N-Benzylpiperazine
7 (BZP) or any salt or optical isomer of N-Benzylpiperazine
8 (BZP), or an analog thereof, is guilty of a Class 2 felony. The
9 fine for violation of this subsection (d) shall not be more
10 than \$200,000.

11 (d-5) (Blank).

12 (e) (Blank). ~~Any person who violates this Section with~~
13 ~~regard to any other amount of a controlled substance other~~
14 ~~than methamphetamine or counterfeit substance classified in~~
15 ~~Schedule I or II, or an analog thereof, which substance is not~~
16 ~~included under subsection (d) of this Section, is guilty of a~~
17 ~~Class 3 felony. The fine for violation of this subsection (e)~~
18 ~~shall not be more than \$150,000.~~

19 (f) (Blank). ~~Any person who violates this Section with~~
20 ~~regard to any other amount of a controlled or counterfeit~~
21 ~~substance classified in Schedule III is guilty of a Class 3~~
22 ~~felony. The fine for violation of this subsection (f) shall~~
23 ~~not be more than \$125,000.~~

24 (g) (Blank). ~~Any person who violates this Section with~~
25 ~~regard to any other amount of a controlled or counterfeit~~
26 ~~substance classified in Schedule IV is guilty of a Class 3~~

1 ~~felony. The fine for violation of this subsection (g) shall~~
2 ~~not be more than \$100,000.~~

3 (h) (Blank). ~~Any person who violates this Section with~~
4 ~~regard to any other amount of a controlled or counterfeit~~
5 ~~substance classified in Schedule V is guilty of a Class 3~~
6 ~~felony. The fine for violation of this subsection (h) shall~~
7 ~~not be more than \$75,000.~~

8 (i) (Blank). ~~This Section does not apply to the~~
9 ~~manufacture, possession or distribution of a substance in~~
10 ~~conformance with the provisions of an approved new drug~~
11 ~~application or an exemption for investigational use within the~~
12 ~~meaning of Section 505 of the Federal Food, Drug and Cosmetic~~
13 ~~Act.~~

14 (j) (Blank).

15 (k) Any person who knowingly manufactures or delivers any
16 other amount of a controlled or counterfeit substance
17 containing dihydrocodeine or classified in Schedules I or II,
18 or an analog thereof, which is (i) a narcotic drug, (ii)
19 lysergic acid diethylamide (LSD) or an analog thereof, (iii)
20 any substance containing amphetamine or fentanyl or any salt
21 or optical isomer of amphetamine or fentanyl, or an analog
22 thereof, (iv) any substance containing N-Benzylpiperazine
23 (BZP) or any salt or optical isomer of N-Benzylpiperazine
24 (BZP), or an analog thereof, or (v) any other substance
25 classified in Schedules I through V; is guilty of a Class 4
26 felony. The fine for violation of this subsection (d) shall

1 not be more than \$25,000.

2 (1) This Section does not apply to the manufacture,
3 possession or distribution of a substance in conformance with
4 the provisions of an approved new drug application or an
5 exemption for investigational use within the meaning of
6 Section 505 of the Federal Food, Drug and Cosmetic Act.

7 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17;
8 100-368, eff. 1-1-18.)

9 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

10 Sec. 402. Except as otherwise authorized by this Act, it
11 is unlawful for any person knowingly to possess a controlled
12 or counterfeit substance or controlled substance analog. A
13 violation of this Act with respect to each of the controlled
14 substances listed herein constitutes a single and separate
15 violation of this Act. For purposes of this Section,
16 "controlled substance analog" or "analog" means a substance,
17 other than a controlled substance, which is not approved by
18 the United States Food and Drug Administration or, if
19 approved, is not dispensed or possessed in accordance with
20 State or federal law, and that has a chemical structure
21 substantially similar to that of a controlled substance in
22 Schedule I or II, or that was specifically designed to produce
23 an effect substantially similar to that of a controlled
24 substance in Schedule I or II. Examples of chemical classes in
25 which controlled substance analogs are found include, but are

1 not limited to, the following: phenethylamines, N-substituted
2 piperidines, morphinans, ecgonines, quinazolinones,
3 substituted indoles, and arylcycloalkylamines. For purposes of
4 this Act, a controlled substance analog shall be treated in
5 the same manner as the controlled substance to which it is
6 substantially similar.

7 (a) Any person who violates this Section with respect to
8 the following controlled or counterfeit substances and
9 amounts, notwithstanding any of the provisions of subsections
10 (c) and (d) to the contrary, is guilty of a Class 1 felony and
11 shall, if sentenced to a term of imprisonment, be sentenced as
12 provided in this subsection (a) and fined as provided in
13 subsection (b):

14 (1) (A) not less than 4 years and not more than 15
15 years with respect to 15 grams or more but less than
16 100 grams of a substance containing heroin;

17 (B) not less than 6 years and not more than 30
18 years with respect to 100 grams or more but less than
19 400 grams of a substance containing heroin;

20 (C) not less than 8 years and not more than 40
21 years with respect to 400 grams or more but less than
22 900 grams of any substance containing heroin;

23 (D) not less than 10 years and not more than 50
24 years with respect to 900 grams or more of any
25 substance containing heroin;

26 (2) (A) not less than 4 years and not more than 15

1 years with respect to 15 grams or more but less than
2 100 grams of any substance containing cocaine;

3 (B) not less than 6 years and not more than 30
4 years with respect to 100 grams or more but less than
5 400 grams of any substance containing cocaine;

6 (C) not less than 8 years and not more than 40
7 years with respect to 400 grams or more but less than
8 900 grams of any substance containing cocaine;

9 (D) not less than 10 years and not more than 50
10 years with respect to 900 grams or more of any
11 substance containing cocaine;

12 (3) (A) not less than 4 years and not more than 15
13 years with respect to 15 grams or more but less than
14 100 grams of any substance containing morphine;

15 (B) not less than 6 years and not more than 30
16 years with respect to 100 grams or more but less than
17 400 grams of any substance containing morphine;

18 (C) not less than 6 years and not more than 40
19 years with respect to 400 grams or more but less than
20 900 grams of any substance containing morphine;

21 (D) not less than 10 years and not more than 50
22 years with respect to 900 grams or more of any
23 substance containing morphine;

24 (4) 200 grams or more of any substance containing
25 peyote;

26 (5) 200 grams or more of any substance containing a

1 derivative of barbituric acid or any of the salts of a
2 derivative of barbituric acid;

3 (6) 200 grams or more of any substance containing
4 amphetamine or any salt of an optical isomer of
5 amphetamine;

6 (6.5) (blank);

7 (7) (A) not less than 4 years and not more than 15
8 years with respect to: (i) 15 grams or more but less
9 than 100 grams of any substance containing lysergic
10 acid diethylamide (LSD), or an analog thereof, or (ii)
11 100 ~~15~~ or more objects or 100 ~~15~~ or more segregated
12 parts of an object or objects but less than 200 objects
13 or 200 segregated parts of an object or objects
14 containing in them or having upon them any amount of
15 any substance containing lysergic acid diethylamide
16 (LSD), or an analog thereof;

17 (B) not less than 6 years and not more than 30
18 years with respect to: (i) 100 grams or more but less
19 than 400 grams of any substance containing lysergic
20 acid diethylamide (LSD), or an analog thereof, or (ii)
21 200 or more objects or 200 or more segregated parts of
22 an object or objects but less than 600 objects or less
23 than 600 segregated parts of an object or objects
24 containing in them or having upon them any amount of
25 any substance containing lysergic acid diethylamide
26 (LSD), or an analog thereof;

1 (C) not less than 8 years and not more than 40
2 years with respect to: (i) 400 grams or more but less
3 than 900 grams of any substance containing lysergic
4 acid diethylamide (LSD), or an analog thereof, or (ii)
5 600 or more objects or 600 or more segregated parts of
6 an object or objects but less than 1500 objects or 1500
7 segregated parts of an object or objects containing in
8 them or having upon them any amount of any substance
9 containing lysergic acid diethylamide (LSD), or an
10 analog thereof;

11 (D) not less than 10 years and not more than 50
12 years with respect to: (i) 900 grams or more of any
13 substance containing lysergic acid diethylamide (LSD),
14 or an analog thereof, or (ii) 1500 or more objects or
15 1500 or more segregated parts of an object or objects
16 containing in them or having upon them any amount of a
17 substance containing lysergic acid diethylamide (LSD),
18 or an analog thereof;

19 (7.5) (A) not less than 4 years and not more than 15
20 years with respect to: (i) 15 grams or more but less
21 than 100 grams of any substance listed in paragraph
22 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
23 (20.1), (21), (25), or (26) of subsection (d) of
24 Section 204, or an analog or derivative thereof, or
25 (ii) 15 or more pills, tablets, caplets, capsules, or
26 objects but less than 200 pills, tablets, caplets,

1 capsules, or objects containing in them or having upon
2 them any amount of any substance listed in paragraph
3 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
4 (20.1), (21), (25), or (26) of subsection (d) of
5 Section 204, or an analog or derivative thereof;

6 (B) not less than 6 years and not more than 30
7 years with respect to: (i) 100 grams or more but less
8 than 400 grams of any substance listed in paragraph
9 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
10 (20.1), (21), (25), or (26) of subsection (d) of
11 Section 204, or an analog or derivative thereof, or
12 (ii) 200 or more pills, tablets, caplets, capsules, or
13 objects but less than 600 pills, tablets, caplets,
14 capsules, or objects containing in them or having upon
15 them any amount of any substance listed in paragraph
16 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
17 (20.1), (21), (25), or (26) of subsection (d) of
18 Section 204, or an analog or derivative thereof;

19 (C) not less than 8 years and not more than 40
20 years with respect to: (i) 400 grams or more but less
21 than 900 grams of any substance listed in paragraph
22 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
23 (20.1), (21), (25), or (26) of subsection (d) of
24 Section 204, or an analog or derivative thereof, or
25 (ii) 600 or more pills, tablets, caplets, capsules, or
26 objects but less than 1,500 pills, tablets, caplets,

1 capsules, or objects containing in them or having upon
2 them any amount of any substance listed in paragraph
3 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),
4 (20.1), (21), (25), or (26) of subsection (d) of
5 Section 204, or an analog or derivative thereof;

6 (D) not less than 10 years and not more than 50
7 years with respect to: (i) 900 grams or more of any
8 substance listed in paragraph (1), (2), (2.1), (2.2),
9 (3), (14.1), (19), (20), (20.1), (21), (25), or (26)
10 of subsection (d) of Section 204, or an analog or
11 derivative thereof, or (ii) 1,500 or more pills,
12 tablets, caplets, capsules, or objects containing in
13 them or having upon them any amount of a substance
14 listed in paragraph (1), (2), (2.1), (2.2), (3),
15 (14.1), (19), (20), (20.1), (21), (25), or (26) of
16 subsection (d) of Section 204, or an analog or
17 derivative thereof;

18 (8) 30 grams or more of any substance containing
19 pentazocine or any of the salts, isomers and salts of
20 isomers of pentazocine, or an analog thereof;

21 (9) 30 grams or more of any substance containing
22 methaqualone or any of the salts, isomers and salts of
23 isomers of methaqualone;

24 (10) 30 grams or more of any substance containing
25 phencyclidine or any of the salts, isomers and salts of
26 isomers of phencyclidine (PCP);

1 (10.5) 30 grams or more of any substance containing
2 ketamine or any of the salts, isomers and salts of isomers
3 of ketamine;

4 (11) 200 grams or more of any substance containing any
5 substance classified as a narcotic drug in Schedules I or
6 II, or an analog thereof, which is not otherwise included
7 in this subsection.

8 (a-1) Any person who violates this Section with regard to
9 the following controlled substances and amounts is guilty
10 of a Class 4 felony:

11 (1) 3 grams or more but less than 15 grams of a
12 substance containing heroin;

13 (2) 3 grams or more but less than 200 grams of a
14 substance containing fentanyl;

15 (3) 5 grams or more but less than 15 grams of a
16 substance containing cocaine;

17 (4) 4 grams or more but less than 15 grams of a
18 substance containing morphine;

19 (5) (i) 1 gram or more but less than 15 grams of any
20 substance containing lysergic acid diethylamide (LSD); or

21 (ii) more than 40 objects or segregated parts of an object
22 or objects but less than 100 objects or segregated parts
23 of an object or objects containing in them or having upon
24 them any amount of a substance containing lysergic acid
25 diethylamide (LSD), or an analog thereof;

26 (6) (i) 2 grams or more but less than 15 grams of any

1 substance listed in paragraph (1), (2), (2.1), (2.2), (3),
2 (14.1), (19), (20), (20.1), (21), (25), or (26) of
3 subsection (d) of Section 204, or an analog or derivative
4 thereof; or (ii) 5 or more pills, tablets, caplets,
5 capsules, or objects containing in them or having upon
6 them any amount of any substance listed in paragraph (1),
7 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21),
8 (25), or (26) of subsection (d) of Section 204, or an
9 analog or derivative thereof;

10 (7) 4 grams or more but less than 30 grams of any
11 substance containing pentazocine or any of the salts,
12 isomers and salts of isomers of pentazocine, or an analog
13 thereof;

14 (8) 3 grams or more but less than 15 grams of any
15 substance containing phencyclidine or any of the salts,
16 isomers and salts of isomers of phencyclidine (PCP), or an
17 analog thereof;

18 (9) 3 grams or more but less than 30 grams of any
19 substance containing ketamine or any of the salts, isomers
20 and salts of isomers of ketamine;

21 (10) (i) 4 grams or more but less than 200 grams of a
22 substance containing hydrocodone, dihydrocodeine,
23 oxycodone, or any of the salts, isomers, and salts of
24 isomers of hydrocodone, dihydrocodeine, or oxycodone, or
25 an analog thereof; or (ii) more than 40 pills, tablets,
26 caplets, capsules, or objects but less than 100 pills,

1 tablets, capsules, or objects containing hydrocodone,
2 dihydrocodeine, oxycodone, or any of the salts, isomers,
3 and salts of isomers of hydrocodone, dihydrocodeine, or
4 oxycodone, or an analog of hydrocodone, dihydrocodeine, or
5 oxycodone.

6 The fine for a violation punishable under this subsection
7 (a-1) shall not be more than \$25,000.

8 (a-5) Any person who violates this Section with regard to
9 the following controlled substances and amounts is guilty of a
10 Class A misdemeanor:

11 (1) less than 3 grams of a substance containing
12 heroin;

13 (2) less than 3 grams of a substance containing
14 fentanyl or an analog thereof;

15 (3) less than 5 grams of a substance containing
16 cocaine;

17 (4) less than 4 grams of a substance containing
18 morphine;

19 (5) (i) less than 1 gram of any substance containing
20 lysergic acid diethylamide (LSD); or (ii) less than 40
21 objects or segregated parts of an object or objects
22 containing in them or having upon them any amount of a
23 substance containing lysergic acid diethylamide (LSD), or
24 an analog thereof;

25 (6) (i) less than 2 grams of any substance listed in
26 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),

1 (20.1), (21), (25), or (26) of subsection (d) of Section
2 204, or an analog or derivative thereof; or (ii) less than
3 5 pills, tablets, caplets, capsules, or objects containing
4 in them or having upon them any amount of any substance
5 listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1),
6 (19), (20), (20.1), (21), (25), or (26) of subsection (d)
7 of Section 204, or an analog or derivative thereof;

8 (7) less than 4 grams any substance containing
9 pentazocine or any of the salts, isomers and salts of
10 isomers of pentazocine, or an analog thereof;

11 (8) less than 3 grams of any substance containing
12 phencyclidine or any of the salts, isomers and salts of
13 isomers of phencyclidine (PCP), or an analog thereof;

14 (9) less than 3 grams of any substance containing
15 ketamine or any of the salts, isomers and salts of isomers
16 of ketamine;

17 (10)(i) less than 4 grams of any substance containing
18 hydrocodone, dihydrocodeine, oxycodone, or any of the
19 salts, isomers, and salts of isomers of hydrocodone,
20 dihydrocodeine, or oxycodone, or an analog thereof; or
21 (ii) less than 40 pills, tablets, caplets, capsules, or
22 objects containing hydrocodone, dihydrocodeine,
23 oxycodone, or any of the salts, isomers, and salts of
24 isomers of hydrocodone, dihydrocodeine, or oxycodone, or
25 an analog of hydrocodone, dihydrocodeine, or oxycodone.

26 (b) Any person sentenced with respect to violations of

1 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)
2 involving 100 grams or more of the controlled substance named
3 therein, may in addition to the penalties provided therein, be
4 fined an amount not to exceed \$200,000 or the full street value
5 of the controlled or counterfeit substances, whichever is
6 greater. The term "street value" shall have the meaning
7 ascribed in Section 110-5 of the Code of Criminal Procedure of
8 1963. Any person sentenced with respect to any other provision
9 of subsection (a), may in addition to the penalties provided
10 therein, be fined an amount not to exceed \$200,000.

11 (c) Any person who violates this Section with regard to an
12 amount of a controlled substance other than methamphetamine or
13 counterfeit substance not set forth in subsection (a), (a-1),
14 (a-5), or (d) is guilty of a Class A misdemeanor. ~~Class 4~~
15 ~~felony. The fine for a violation punishable under this~~
16 ~~subsection (c) shall not be more than \$25,000.~~

17 (d) Any person who violates this Section with regard to
18 any amount of anabolic steroid is guilty of a Class C
19 misdemeanor for the first offense and a Class B misdemeanor
20 for a subsequent offense committed within 2 years of a prior
21 conviction.

22 (Source: P.A. 99-371, eff. 1-1-16; 100-368, eff. 1-1-18.)

23 (720 ILCS 570/408) (from Ch. 56 1/2, par. 1408)

24 Sec. 408. Second or subsequent offense; penalties.

25 (a) Any person convicted of a second or subsequent felony

1 offense under this Act may be sentenced to imprisonment for a
2 term up to twice the maximum term otherwise authorized, fined
3 an amount up to twice that otherwise authorized, or both.

4 (b) For purposes of this Section, an offense is considered
5 a second or subsequent felony offense, if, prior to his or her
6 conviction of the offense, the person:

7 (1) has been convicted, subsequent to the effective
8 date of this amendatory Act of the 103rd General Assembly,
9 of a felony violation of this Act or the Methamphetamine
10 Control and Community Protection Act or under any
11 substantially similar law of the United States or of any
12 state relating to controlled substances; or

13 (2) has at any time been convicted of a Class 1 or
14 higher felony violation of this Act or the Methamphetamine
15 Control and Community Protection Act or under any
16 substantially similar law of the United States or of any
17 state relating to controlled substances. ~~offender has at~~
18 ~~any time been convicted under this Act or under any law of~~
19 ~~the United States or of any State relating to controlled~~
20 ~~substances.~~

21 (Source: P.A. 97-334, eff. 1-1-12.)

22 Section 15. The Methamphetamine Control and Community
23 Protection Act is amended by changing Sections 55 and 60 as
24 follows:

1 (720 ILCS 646/55)

2 Sec. 55. Methamphetamine delivery.

3 (a) Delivery or possession with intent to deliver
4 methamphetamine or a substance containing methamphetamine.

5 (1) It is unlawful knowingly to engage in the delivery
6 or possession with intent to deliver methamphetamine or a
7 substance containing methamphetamine.

8 (2) A person who violates paragraph (1) of this
9 subsection (a) is subject to the following penalties:

10 (A) A person who delivers ~~or possesses with intent~~
11 ~~to deliver~~ less than 5 grams of methamphetamine or a
12 substance containing methamphetamine is guilty of a
13 Class 2 felony.

14 (A-5) A person who possesses with intent to
15 deliver more than 3 grams but less than 5 grams of
16 methamphetamine is guilty of a Class 2 felony.

17 (B) A person who delivers or possesses with intent
18 to deliver 5 or more grams but less than 15 grams of
19 methamphetamine or a substance containing
20 methamphetamine is guilty of a Class 1 felony.

21 (C) A person who delivers or possesses with intent
22 to deliver 15 or more grams but less than 100 grams of
23 methamphetamine or a substance containing
24 methamphetamine is guilty of a Class X felony, subject
25 to a term of imprisonment of not less than 6 years and
26 not more than 30 years, and subject to a fine not to

1 exceed \$100,000 or the street value of the
2 methamphetamine, whichever is greater.

3 (D) A person who delivers or possesses with intent
4 to deliver 100 or more grams but less than 400 grams of
5 methamphetamine or a substance containing
6 methamphetamine is guilty of a Class X felony, subject
7 to a term of imprisonment of not less than 9 years and
8 not more than 40 years, and subject to a fine not to
9 exceed \$200,000 or the street value of the
10 methamphetamine, whichever is greater.

11 (E) A person who delivers or possesses with intent
12 to deliver 400 or more grams but less than 900 grams of
13 methamphetamine or a substance containing
14 methamphetamine is guilty of a Class X felony, subject
15 to a term of imprisonment of not less than 12 years and
16 not more than 50 years, and subject to a fine not to
17 exceed \$300,000 or the street value of the
18 methamphetamine, whichever is greater.

19 (F) A person who delivers or possesses with intent
20 to deliver 900 or more grams of methamphetamine or a
21 substance containing methamphetamine is guilty of a
22 Class X felony, subject to a term of imprisonment of
23 not less than 15 years and not more than 60 years, and
24 subject to a fine not to exceed \$400,000 or the street
25 value of the methamphetamine, whichever is greater.

26 (b) Aggravated delivery or possession with intent to

1 deliver methamphetamine or a substance containing
2 methamphetamine.

3 (1) It is unlawful to engage in the aggravated
4 delivery or possession with intent to deliver
5 methamphetamine or a substance containing methamphetamine.
6 A person engages in the aggravated delivery or possession
7 with intent to deliver methamphetamine or a substance
8 containing methamphetamine when the person violates
9 paragraph (1) of subsection (a) of this Section and:

10 (A) the person is at least 18 years of age and
11 knowingly delivers or possesses with intent to deliver
12 the methamphetamine or substance containing
13 methamphetamine to a person under 18 years of age;

14 (B) the person is at least 18 years of age and
15 knowingly uses, engages, employs, or causes another
16 person to use, engage, or employ a person under 18
17 years of age to deliver the methamphetamine or
18 substance containing methamphetamine;

19 (C) the person knowingly delivers or possesses
20 with intent to deliver the methamphetamine or
21 substance containing methamphetamine in any structure
22 or vehicle protected by one or more firearms,
23 explosive devices, booby traps, alarm systems,
24 surveillance systems, guard dogs, or dangerous
25 animals;

26 (D) the person knowingly delivers or possesses

1 with intent to deliver the methamphetamine or
2 substance containing methamphetamine in any school, on
3 any real property comprising any school, or in any
4 conveyance owned, leased, or contracted by a school to
5 transport students to or from school or a
6 school-related activity and at the time of the
7 violation persons under the age of 18 are present, the
8 offense is committed during school hours, or the
9 offense is committed at times when persons under the
10 age of 18 are reasonably expected to be present in the
11 school, in the conveyance, or on the real property,
12 such as when after-school activities are occurring;

13 (E) the person delivers or causes another person
14 to deliver the methamphetamine or substance containing
15 methamphetamine to a woman that the person knows to be
16 pregnant; or

17 (F) (blank).

18 (2) A person who violates paragraph (1) of this
19 subsection (b) is subject to the following penalties:

20 (A) A person who delivers or possesses with intent
21 to deliver less than 5 grams of methamphetamine or a
22 substance containing methamphetamine is guilty of a
23 Class 1 felony.

24 (B) A person who delivers or possesses with intent
25 to deliver 5 or more grams but less than 15 grams of
26 methamphetamine or a substance containing

1 methamphetamine is guilty of a Class X felony, subject
2 to a term of imprisonment of not less than 6 years and
3 not more than 30 years, and subject to a fine not to
4 exceed \$100,000 or the street value of the
5 methamphetamine, whichever is greater.

6 (C) A person who delivers or possesses with intent
7 to deliver 15 or more grams but less than 100 grams of
8 methamphetamine or a substance containing
9 methamphetamine is guilty of a Class X felony, subject
10 to a term of imprisonment of not less than 8 years and
11 not more than 40 years, and subject to a fine not to
12 exceed \$200,000 or the street value of the
13 methamphetamine, whichever is greater.

14 (D) A person who delivers or possesses with intent
15 to deliver 100 or more grams of methamphetamine or a
16 substance containing methamphetamine is guilty of a
17 Class X felony, subject to a term of imprisonment of
18 not less than 10 years and not more than 50 years, and
19 subject to a fine not to exceed \$300,000 or the street
20 value of the methamphetamine, whichever is greater.

21 (Source: P.A. 100-3, eff. 1-1-18.)

22 (720 ILCS 646/60)

23 Sec. 60. Methamphetamine possession.

24 (a) It is unlawful knowingly to possess methamphetamine or
25 a substance containing methamphetamine.

1 (b) A person who violates subsection (a) is subject to the
2 following penalties:

3 (1) A person who possesses less than 3 5 grams of
4 methamphetamine or a substance containing methamphetamine
5 is guilty of a Class A misdemeanor ~~3-felony~~.

6 (2) A person who possesses 3 5 or more grams but less
7 than 15 grams of methamphetamine or a substance containing
8 methamphetamine is guilty of a Class 4 2 felony.

9 (3) A person who possesses 15 or more grams but less
10 than 100 grams of methamphetamine or a substance
11 containing methamphetamine is guilty of a Class 1 felony.

12 (4) A person who possesses 100 or more grams but less
13 than 400 grams of methamphetamine or a substance
14 containing methamphetamine is guilty of a Class X felony,
15 subject to a term of imprisonment of not less than 6 years
16 and not more than 30 years, and subject to a fine not to
17 exceed \$100,000.

18 (5) A person who possesses 400 or more grams but less
19 than 900 grams of methamphetamine or a substance
20 containing methamphetamine is guilty of a Class X felony,
21 subject to a term of imprisonment of not less than 8 years
22 and not more than 40 years, and subject to a fine not to
23 exceed \$200,000.

24 (6) A person who possesses 900 or more grams of
25 methamphetamine or a substance containing methamphetamine
26 is guilty of a Class X felony, subject to a term of

1 imprisonment of not less than 10 years and not more than 50
2 years, and subject to a fine not to exceed \$300,000.

3 (Source: P.A. 94-556, eff. 9-11-05.)

4 Section 20. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 116-2.2 as follows:

6 (725 ILCS 5/116-2.2 new)

7 Sec. 116-2.2. Retroactive resentencing.

8 (a) A person serving a sentence, including a sentence of
9 probation, for an offense for which the statutory penalty has
10 been subsequently reduced under this amendatory Act of the
11 103rd General Assembly may petition the trial court that
12 entered the judgment of conviction to request resentencing in
13 accordance with the statutory penalty in effect at the time of
14 the filing of the petition.

15 (b) Within 30 days of the effective date of this
16 amendatory Act of the 103rd General Assembly, the Department
17 of Corrections shall identify each individual serving a
18 sentence of imprisonment in the Department who may be eligible
19 for resentencing under subsection (a), and then notify the
20 prosecuting authority of the jurisdiction in which the person
21 was convicted. No later than 60 days after receiving notice
22 from the Department, the prosecuting authority shall petition
23 the trial court that entered the judgment of conviction to
24 request resentencing in accordance with the statutory penalty

1 in effect at the time of filing the petition.

2 (c) If the petition satisfies the criteria in subsection
3 (a), then a new sentencing hearing shall be held in accordance
4 with the Unified Code of Corrections. At the hearing, both the
5 defendant and the State may offer evidence of the defendant's
6 conduct during his or her period of absence from the court.
7 Defendants shall be entitled to have an attorney represent
8 them at the resentencing hearing. The court may impose any
9 sentence authorized by the Unified Code of Corrections, except
10 that resentencing under this Section may not result in the
11 imposition of a term of imprisonment or probation longer than
12 the original sentence. A person who is resentenced under this
13 subsection (c) shall be given credit for all time served in
14 custody or on probation, or both.

15 (d) A person who has completed his or her sentence for a
16 conviction of a felony offense for which the statutory penalty
17 has been subsequently reduced to a misdemeanor under this
18 amendatory Act of the 103rd General Assembly may petition the
19 trial court that entered the judgment of conviction to
20 designate the felony conviction as a misdemeanor.

21 (e) If the petition satisfies the criteria in subsection
22 (d), then the court shall enter an order providing that the
23 felony offense of which the person was previously convicted is
24 designated as a misdemeanor under this Section.

25 (f) If a person has been charged prior to the effective
26 date of this amendatory Act of the 103rd General Assembly with

1 a felony offense for which the statutory penalty has been
2 reduced to a misdemeanor under this amendatory Act of the
3 103rd General Assembly, the charges shall be modified to
4 reflect the new penalty.

5 (g) If a person is serving a sentence of probation for an
6 offense for which the penalty was subsequently reduced to a
7 misdemeanor under this amendatory Act of the 103rd General
8 Assembly, and the person's probation is revoked under Section
9 4-6-4 of this Code, the person shall not be sentenced to a term
10 of incarceration that exceeds the current maximum sentence.

11 Section 25. The Unified Code of Corrections is amended by
12 adding Section 5-6-3.7 as follows:

13 (730 ILCS 5/5-6-3.7 new)

14 Sec. 5-6-3.7. Misdemeanor diversion program.

15 (a) The General Assembly seeks to promote public safety,
16 conserve valuable resources, and reduce recidivism by
17 establishing a Misdemeanor Diversion Program.

18 (b) In this Section:

19 (1) "Appropriate and accessible" means an organization
20 providing services that are likely to be needed by a
21 participant in the Program, and whose location and hours
22 of service make transportation to and from reasonable for
23 the participant.

24 (2) "Human services organization" means any

1 organization equipped to provide screening services
2 described in paragraph (2) of subsection (e) or authorized
3 by the State to perform behavioral health treatment or
4 substance use intervention and treatment or other social
5 services, including, but not limited to, homeless
6 services, education, and job training and placement.

7 (3) "Violent offense" means any offense in which
8 bodily harm was inflicted or in which force was used
9 against any person or threatened against any person, any
10 offense involving sexual conduct, sexual penetration, or
11 sexual exploitation, any offense of domestic violence,
12 domestic battery, violation of an order of protection,
13 stalking, or hate crime.

14 (c) Any circuit court or the State's Attorney of any
15 county may establish a Misdemeanor Diversion Program in
16 accordance with this Section.

17 (d) Whenever any person who does not have a felony case
18 pending is arrested for and charged with a misdemeanor offense
19 that is not a violent offense and does not involve the
20 possession of a firearm or dangerous weapon, the court, with
21 the consent of the defendant, may suspend the proceedings
22 prior to the entry of a finding of guilt or plea of guilty to
23 ascertain the defendant's eligibility to participate in and
24 complete the Misdemeanor Diversion Program. If the Program was
25 established by the State's Attorney, then except as otherwise
26 provided in this subsection (d), the defendant's eligibility

1 to participate in the Program shall be within the discretion
2 of the State's Attorney.

3 (e) The State's Attorney shall be responsible for
4 identifying eligible defendants. Placement into the Program
5 shall include the following:

6 (1) At the defendant's initial court appearance
7 appearance or soon as the defendant's eligibility for the
8 Program may be ascertained, the State's Attorney shall
9 inform the defendant of the existence of the Program, the
10 need for a preliminary screen for behavioral health or
11 other social service needs, the requirements for
12 successful completion, the implications of non-compliance,
13 and that successful completion shall result in dismissal
14 of the charge and the defendant's eligibility to petition
15 for sealing or expungement of his or her record with no
16 waiting period.

17 (2) If the defendant agrees, the defendant shall be
18 immediately referred to a human services organization that
19 shall perform a brief screening to determine the presence
20 of any substance use, mental health, or other social
21 service needs experienced by the defendant.

22 (3) If the screen does not indicate the defendant's
23 need for services, the court shall continue the case for
24 further proceedings under the Code of Criminal Procedure
25 of 1963.

26 (4) If the screen indicates a need for services, the

1 defendant shall be considered eligible for participation.
2 Participation is voluntary. To participate, the defendant
3 shall sign a written agreement with the court that he or
4 she understands and agrees to the conditions of
5 participation, as set forth in subsection (f) of this
6 Section.

7 (5) Upon acceptance of the agreement by the court, the
8 human services organization responsible for the screening
9 shall refer the defendant to an appropriate and accessible
10 human services organization responsible for conducting a
11 comprehensive assessment and developing a service plan, as
12 described in subsection (f) of this Section.

13 (6) At such time as it is known, the human services
14 organization responsible for the screening shall report to
15 the court that the individual has successfully or
16 unsuccessfully completed the conditions of participation.

17 (f) The defendant shall agree to submit to a more
18 comprehensive assessment of behavioral health and other social
19 service needs conducted by the human services organization to
20 which the defendant is referred. As a result of this
21 assessment, the organization shall prepare recommendations for
22 treatment and other social services which would likely benefit
23 the defendant, which the human services organization shall
24 present to and discuss with the defendant who may agree to
25 pursue treatment voluntarily. Adherence to the service plan
26 recommendations may not be a condition of participation.

1 Completion of all of the conditions of participation shall
2 occur no more than 90 days from the date of admission into the
3 Program.

4 (g) Under no circumstances shall the human services
5 organization performing either the brief screening, referral,
6 and reporting under subsection (e) or the assessment and
7 service recommendations under subsection (f) be required to
8 perform those services in the absence of reimbursement for
9 those services. The human services organization may already
10 have an existing mechanism for reimbursement, or a new
11 mechanism may be created by way of agreement with the court,
12 the State's Attorney, or the jurisdiction in which the
13 Misdemeanor Diversion Program was developed specifically for
14 the purposes of the Program.

15 (h) If all conditions of participation have been met, the
16 defendant shall be deemed to have successfully completed the
17 Program and the court shall dismiss the proceedings against
18 the defendant. Discharge and dismissal shall not be considered
19 a conviction for purposes of disqualification or disability
20 imposed by law upon conviction of a crime.

21 (i) Non-compliance with the conditions of participation,
22 or failure to complete the conditions of participation within
23 90 days, shall be considered a violation and the court shall
24 continue the case for further proceedings under the Code of
25 Criminal Procedure of 1963, as if the defendant had not
26 participated in the Program.