



Rep. Kelly M. Cassidy

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1 AMENDMENT TO HOUSE BILL 218

2 AMENDMENT NO. _____. Amend House Bill 218, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 2630/5.2)

8 Sec. 5.2. Expungement and sealing.

9 (a) General Provisions.

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

13 (A) The following terms shall have the meanings
14 ascribed to them in the Unified Code of Corrections,
15 730 ILCS 5/5-1-2 through 5/5-1-22:

16 (i) Business Offense (730 ILCS 5/5-1-2),

- 1 (ii) Charge (730 ILCS 5/5-1-3),
2 (iii) Court (730 ILCS 5/5-1-6),
3 (iv) Defendant (730 ILCS 5/5-1-7),
4 (v) Felony (730 ILCS 5/5-1-9),
5 (vi) Imprisonment (730 ILCS 5/5-1-10),
6 (vii) Judgment (730 ILCS 5/5-1-12),
7 (viii) Misdemeanor (730 ILCS 5/5-1-14),
8 (ix) Offense (730 ILCS 5/5-1-15),
9 (x) Parole (730 ILCS 5/5-1-16),
10 (xi) Petty Offense (730 ILCS 5/5-1-17),
11 (xii) Probation (730 ILCS 5/5-1-18),
12 (xiii) Sentence (730 ILCS 5/5-1-19),
13 (xiv) Supervision (730 ILCS 5/5-1-21), and
14 (xv) Victim (730 ILCS 5/5-1-22).

15 (B) As used in this Section, "charge not initiated
16 by arrest" means a charge (as defined by 730 ILCS
17 5/5-1-3) brought against a defendant where the
18 defendant is not arrested prior to or as a direct
19 result of the charge.

20 (C) "Conviction" means a judgment of conviction or
21 sentence entered upon a plea of guilty or upon a
22 verdict or finding of guilty of an offense, rendered by
23 a legally constituted jury or by a court of competent
24 jurisdiction authorized to try the case without a jury.
25 An order of supervision successfully completed by the
26 petitioner is not a conviction. An order of qualified

1 probation (as defined in subsection (a)(1)(J))
2 successfully completed by the petitioner is not a
3 conviction. An order of supervision or an order of
4 qualified probation that is terminated
5 unsatisfactorily is a conviction, unless the
6 unsatisfactory termination is reversed, vacated, or
7 modified and the judgment of conviction, if any, is
8 reversed or vacated.

9 (D) "Criminal offense" means a petty offense,
10 business offense, misdemeanor, felony, or municipal
11 ordinance violation (as defined in subsection
12 (a)(1)(H)). As used in this Section, a minor traffic
13 offense (as defined in subsection (a)(1)(G)) shall not
14 be considered a criminal offense.

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

24 (F) As used in this Section, "last sentence" means
25 the sentence, order of supervision, or order of
26 qualified probation (as defined by subsection

1 (a) (1) (J)), for a criminal offense (as defined by
2 subsection (a) (1) (D)) that terminates last in time in
3 any jurisdiction, regardless of whether the petitioner
4 has included the criminal offense for which the
5 sentence or order of supervision or qualified
6 probation was imposed in his or her petition. If
7 multiple sentences, orders of supervision, or orders
8 of qualified probation terminate on the same day and
9 are last in time, they shall be collectively considered
10 the "last sentence" regardless of whether they were
11 ordered to run concurrently.

12 (G) "Minor traffic offense" means a petty offense,
13 business offense, or Class C misdemeanor under the
14 Illinois Vehicle Code or a similar provision of a
15 municipal or local ordinance.

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

21 (I) "Petitioner" means an adult or a minor
22 prosecuted as an adult who has applied for relief under
23 this Section.

24 (J) "Qualified probation" means an order of
25 probation under Section 10 of the Cannabis Control Act,
26 Section 410 of the Illinois Controlled Substances Act,

1 Section 70 of the Methamphetamine Control and
2 Community Protection Act, Section 5-6-3.3 or 5-6-3.4
3 of the Unified Code of Corrections, Section
4 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as
5 those provisions existed before their deletion by
6 Public Act 89-313), Section 10-102 of the Illinois
7 Alcoholism and Other Drug Dependency Act, Section
8 40-10 of the Alcoholism and Other Drug Abuse and
9 Dependency Act, or Section 10 of the Steroid Control
10 Act. For the purpose of this Section, "successful
11 completion" of an order of qualified probation under
12 Section 10-102 of the Illinois Alcoholism and Other
13 Drug Dependency Act and Section 40-10 of the Alcoholism
14 and Other Drug Abuse and Dependency Act means that the
15 probation was terminated satisfactorily and the
16 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 court
24 clerk under Section 16 of the Clerks of Courts Act, but
25 any index issued by the circuit court clerk before the
26 entry of the order to seal shall not be affected.

1 (L) "Sexual offense committed against a minor"
2 includes but is not limited to the offenses of indecent
3 solicitation of a child or criminal sexual abuse when
4 the victim of such offense is under 18 years of age.

5 (M) "Terminate" as it relates to a sentence or
6 order of supervision or qualified probation includes
7 either satisfactory or unsatisfactory termination of
8 the sentence, unless otherwise specified in this
9 Section.

10 (2) Minor Traffic Offenses. Orders of supervision or
11 convictions for minor traffic offenses shall not affect a
12 petitioner's eligibility to expunge or seal records
13 pursuant to this Section.

14 (2.5) Commencing 180 days after the effective date of
15 this amendatory Act of the 99th General Assembly, the law
16 enforcement agency issuing the citation shall
17 automatically expunge, on or before January 1 and July 1 of
18 each year, the law enforcement records of a person found to
19 have committed a civil law violation of subsection (a) of
20 Section 4 of the Cannabis Control Act or subsection (c) of
21 Section 3.5 of the Drug Paraphernalia Control Act in the
22 law enforcement agency's possession or control and which
23 contains the final satisfactory disposition which pertain
24 to the person issued a citation for that offense. The law
25 enforcement agency shall allow a person to use an Access
26 and Review process, as established in the Department of

1 State Police, for verifying that his or her law enforcement
2 records eligible under this paragraph (2.5) have been
3 expunged as provided in this paragraph. The law enforcement
4 agency shall provide by rule the process for access,
5 review, and automatic expungement. Commencing 180 days
6 after the effective date of this amendatory Act of the 99th
7 General Assembly, the clerk of the circuit court shall
8 automatically expunge, on or before January 1 and July 1 of
9 each year, the court records of a person found in the
10 circuit court to have committed a civil law violation of
11 subsection (a) of Section 4 of the Cannabis Control Act or
12 subsection (c) of Section 3.5 of the Drug Paraphernalia
13 Control Act in the clerk's possession or control and which
14 contains the final satisfactory disposition which pertain
15 to the person 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 provision
3 of a local ordinance, that occurred prior to the
4 offender reaching the age of 25 years and the offender
5 has no other conviction for violating Section 11-501 or
6 11-503 of the Illinois Vehicle Code or a similar
7 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, except
19 Section 11-14 of the Criminal Code of 1961 or the
20 Criminal Code of 2012, or a similar provision of a
21 local ordinance;

22 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
23 26-5, or 48-1 of the Criminal Code of 1961 or the
24 Criminal Code of 2012, or a similar provision of a
25 local ordinance;

26 (iii) Sections 12-3.1 or 12-3.2 of the

1 Criminal Code of 1961 or the Criminal Code of 2012,
2 or Section 125 of the Stalking No Contact Order
3 Act, or Section 219 of the Civil No Contact Order
4 Act, or a similar provision of a local ordinance;

5 (iv) offenses which are Class A misdemeanors
6 under the Humane Care for Animals Act; or

7 (v) any offense or attempted offense that
8 would subject a person to registration under the
9 Sex Offender Registration Act.

10 (D) the sealing of the records of an arrest which
11 results in the petitioner being charged with a felony
12 offense or records of a charge not initiated by arrest
13 for a felony offense unless:

14 (i) the charge is amended to a misdemeanor and
15 is otherwise eligible to be sealed pursuant to
16 subsection (c);

17 (ii) the charge is brought along with another
18 charge as a part of one case and the charge results
19 in acquittal, dismissal, or conviction when the
20 conviction was reversed or vacated, and another
21 charge brought in the same case results in a
22 disposition for a misdemeanor offense that is
23 eligible to be sealed pursuant to subsection (c) or
24 a disposition listed in paragraph (i), (iii), or
25 (iv) of this subsection;

26 (iii) the charge results in first offender

1 probation as set forth in subsection (c) (2) (E);

2 (iv) the charge is for a felony offense listed
3 in subsection (c) (2) (F) or the charge is amended to
4 a felony offense listed in subsection (c) (2) (F);

5 (v) the charge results in acquittal,
6 dismissal, or the petitioner's release without
7 conviction; or

8 (vi) the charge results in a conviction, but
9 the conviction was reversed or vacated.

10 (b) Expungement.

11 (1) A petitioner may petition the circuit court to
12 expunge the records of his or her arrests and charges not
13 initiated by arrest when:

14 (A) He or she has never been convicted of a
15 criminal offense; and

16 (B) Each arrest or charge not initiated by arrest
17 sought to be expunged resulted in: (i) acquittal,
18 dismissal, or the petitioner's release without
19 charging, unless excluded by subsection (a) (3) (B);
20 (ii) a conviction which was vacated or reversed, unless
21 excluded by subsection (a) (3) (B); (iii) an order of
22 supervision and such supervision was successfully
23 completed by the petitioner, unless excluded by
24 subsection (a) (3) (A) or (a) (3) (B); or (iv) an order of
25 qualified probation (as defined in subsection
26 (a) (1) (J)) and such probation was successfully

1 completed by the petitioner.

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

3 (A) When the arrest or charge not initiated by
4 arrest sought to be expunged resulted in an acquittal,
5 dismissal, the petitioner's release without charging,
6 or the reversal or vacation of a conviction, there is
7 no waiting period to petition for the expungement of
8 such records.

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

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

23 (i-5) Those arrests or charges that resulted
24 in orders of supervision for a misdemeanor
25 violation of subsection (a) of Section 11-503 of
26 the Illinois Vehicle Code or a similar provision of

1 a local ordinance, that occurred prior to the
2 offender reaching the age of 25 years and the
3 offender has no other conviction for violating
4 Section 11-501 or 11-503 of the Illinois Vehicle
5 Code or a similar provision of a local ordinance
6 shall not be eligible for expungement until the
7 petitioner has reached the age of 25 years.

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

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

19 (3) Those records maintained by the Department for
20 persons arrested prior to their 17th birthday shall be
21 expunged as provided in Section 5-915 of the Juvenile Court
22 Act of 1987.

23 (4) Whenever a person has been arrested for or
24 convicted of any offense, in the name of a person whose
25 identity he or she has stolen or otherwise come into
26 possession of, the aggrieved person from whom the identity

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

25 (5) Whenever a person has been convicted of criminal
26 sexual assault, aggravated criminal sexual assault,

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

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

23 (7) Nothing in this Section shall prevent the
24 Department of State Police from maintaining all records of
25 any person who is admitted to probation upon terms and
26 conditions and who fulfills those terms and conditions

1 pursuant to Section 10 of the Cannabis Control Act, Section
2 410 of the Illinois Controlled Substances Act, Section 70
3 of the Methamphetamine Control and Community Protection
4 Act, Section 5-6-3.3 or 5-6-3.4 of the Unified Code of
5 Corrections, Section 12-4.3 or subdivision (b)(1) of
6 Section 12-3.05 of the Criminal Code of 1961 or the
7 Criminal Code of 2012, Section 10-102 of the Illinois
8 Alcoholism and Other Drug Dependency Act, Section 40-10 of
9 the Alcoholism and Other Drug Abuse and Dependency Act, or
10 Section 10 of the Steroid Control Act.

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

18 (c) Sealing.

19 (1) Applicability. Notwithstanding any other provision
20 of this Act to the contrary, and cumulative with any rights
21 to expungement of criminal records, this subsection
22 authorizes the sealing of criminal records of adults and of
23 minors prosecuted as adults.

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

26 (A) All arrests resulting in release without

1 charging;

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

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

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

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

22 (F) Arrests or charges not initiated by arrest
23 resulting in felony convictions for the following
24 offenses:

25 (i) Class 4 felony convictions for:

26 Prostitution under Section 11-14 of the

1 Criminal Code of 1961 or the Criminal Code of
2 2012.

3 Possession of cannabis under Section 4 of
4 the Cannabis Control Act.

5 Possession of a controlled substance under
6 Section 402 of the Illinois Controlled
7 Substances Act.

8 Offenses under the Methamphetamine
9 Precursor Control Act.

10 Offenses under the Steroid Control Act.

11 Theft under Section 16-1 of the Criminal
12 Code of 1961 or the Criminal Code of 2012.

13 Retail theft under Section 16A-3 or
14 paragraph (a) of 16-25 of the Criminal Code of
15 1961 or the Criminal Code of 2012.

16 Deceptive practices under Section 17-1 of
17 the Criminal Code of 1961 or the Criminal Code
18 of 2012.

19 Forgery under Section 17-3 of the Criminal
20 Code of 1961 or the Criminal Code of 2012.

21 Possession of burglary tools under Section
22 19-2 of the Criminal Code of 1961 or the
23 Criminal Code of 2012.

24 (ii) Class 3 felony convictions for:

25 Theft under Section 16-1 of the Criminal
26 Code of 1961 or the Criminal Code of 2012.

1 Retail theft under Section 16A-3 or
2 paragraph (a) of 16-25 of the Criminal Code of
3 1961 or the Criminal Code of 2012.

4 Deceptive practices under Section 17-1 of
5 the Criminal Code of 1961 or the Criminal Code
6 of 2012.

7 Forgery under Section 17-3 of the Criminal
8 Code of 1961 or the Criminal Code of 2012.

9 Possession with intent to manufacture or
10 deliver a controlled substance under Section
11 401 of the Illinois Controlled Substances Act.

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

15 (A) Records identified as eligible under
16 subsection (c)(2)(A) and (c)(2)(B) may be sealed at any
17 time.

18 (B) Records identified as eligible under
19 subsection (c)(2)(C) may be sealed (i) 3 years after
20 the termination of petitioner's last sentence (as
21 defined in subsection (a)(1)(F)) if the petitioner has
22 never been convicted of a criminal offense (as defined
23 in subsection (a)(1)(D)); or (ii) 4 years after the
24 termination of the petitioner's last sentence (as
25 defined in subsection (a)(1)(F)) if the petitioner has
26 ever been convicted of a criminal offense (as defined

1 in subsection (a) (1) (D)).

2 (C) Records identified as eligible under
3 subsections (c) (2) (D), (c) (2) (E), and (c) (2) (F) may be
4 sealed 4 years after the termination of the
5 petitioner's last sentence (as defined in subsection
6 (a) (1) (F)).

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

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

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

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

26 (1) Filing the petition. Upon becoming eligible to

1 petition for the expungement or sealing of records under
2 this Section, the petitioner shall file a petition
3 requesting the expungement or sealing of records with the
4 clerk of the court where the arrests occurred or the
5 charges were brought, or both. If arrests occurred or
6 charges were brought in multiple jurisdictions, a petition
7 must be filed in each such jurisdiction. The petitioner
8 shall pay the applicable fee, if not waived.

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

23 (3) Drug test. The petitioner must attach to the
24 petition proof that the petitioner has passed a test taken
25 within 30 days before the filing of the petition showing
26 the absence within his or her body of all illegal

1 substances as defined by the Illinois Controlled
2 Substances Act, the Methamphetamine Control and Community
3 Protection Act, and the Cannabis Control Act if he or she
4 is petitioning to:

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

6 (B) seal felony records for a violation of the
7 Illinois Controlled Substances Act, the
8 Methamphetamine Control and Community Protection Act,
9 or the Cannabis Control Act under clause (c) (2) (F);

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

11 (D) expunge felony records of a qualified
12 probation under clause (b) (1) (B) (iv).

13 (4) Service of petition. The circuit court clerk shall
14 promptly serve a copy of the petition and documentation to
15 support the petition under subsection (e-5) or (e-6) on the
16 State's Attorney or prosecutor charged with the duty of
17 prosecuting the offense, the Department of State Police,
18 the arresting agency and the chief legal officer of the
19 unit of local government effecting the arrest.

20 (5) Objections.

21 (A) Any party entitled to notice of the petition
22 may file an objection to the petition. All objections
23 shall be in writing, shall be filed with the circuit
24 court clerk, and shall state with specificity the basis
25 of the objection. Whenever a person who has been
26 convicted of an offense is granted a pardon by the

1 Governor which specifically authorizes expungement, an
2 objection to the petition may not be filed.

3 (B) Objections to a petition to expunge or seal
4 must be filed within 60 days of the date of service of
5 the petition.

6 (6) Entry of order.

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

14 (B) Unless the State's Attorney or prosecutor, the
15 Department of State Police, the arresting agency, or
16 the chief legal officer files an objection to the
17 petition to expunge or seal within 60 days from the
18 date of service of the petition, the court shall enter
19 an order granting or denying the petition.

20 (7) Hearings. If an objection is filed, the court shall
21 set a date for a hearing and notify the petitioner and all
22 parties entitled to notice of the petition of the hearing
23 date at least 30 days prior to the hearing. Prior to the
24 hearing, the State's Attorney shall consult with the
25 Department as to the appropriateness of the relief sought
26 in the petition to expunge or seal. At the hearing, the

1 court shall hear evidence on whether the petition should or
2 should not be granted, and shall grant or deny the petition
3 to expunge or seal the records based on the evidence
4 presented at the hearing. The court may consider the
5 following:

6 (A) the strength of the evidence supporting the
7 defendant's conviction;

8 (B) the reasons for retention of the conviction
9 records by the State;

10 (C) the petitioner's age, criminal record history,
11 and employment history;

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

15 (E) the specific adverse consequences the
16 petitioner may be subject to if the petition is denied.

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

26 (9) Implementation of order.

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

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

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

19 (iii) in response to an inquiry for expunged
20 records, the court, the Department, or the agency
21 receiving such inquiry, shall reply as it does in
22 response to inquiries when no records ever
23 existed.

24 (B) Upon entry of an order to expunge records
25 pursuant to (b) (2) (B) (i) or (b) (2) (C), or both:

26 (i) the records shall be expunged (as defined

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

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

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

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

1 Department of Corrections upon conviction for any
2 offense; and

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

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

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

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

26 (iii) the records shall be impounded by the

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

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

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

20 (C) Upon entry of an order to seal records under
21 subsection (c), the arresting agency, any other agency
22 as ordered by the court, the Department, and the court
23 shall seal the records (as defined in subsection
24 (a) (1) (K)). In response to an inquiry for such records
25 from anyone not authorized by law to access such
26 records, the court, the Department, or the agency

1 receiving such inquiry shall reply as it does in
2 response to inquiries when no records ever existed.

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

18 (10) Fees. The Department may charge the petitioner a
19 fee equivalent to the cost of processing any order to
20 expunge or seal records. Notwithstanding any provision of
21 the Clerks of Courts Act to the contrary, the circuit court
22 clerk may charge a fee equivalent to the cost associated
23 with the sealing or expungement of records by the circuit
24 court clerk. From the total filing fee collected for the
25 petition to seal or expunge, the circuit court clerk shall
26 deposit \$10 into the Circuit Court Clerk Operation and

1 Administrative Fund, to be used to offset the costs
2 incurred by the circuit court clerk in performing the
3 additional duties required to serve the petition to seal or
4 expunge on all parties. The circuit court clerk shall
5 collect and forward the Department of State Police portion
6 of the fee to the Department and it shall be deposited in
7 the State Police Services Fund.

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

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

25 (13) Effect of Order. An order granting a petition
26 under the expungement or sealing provisions of this Section

1 shall not be considered void because it fails to comply
2 with the provisions of this Section or because of any error
3 asserted in a motion to vacate, modify, or reconsider. The
4 circuit court retains jurisdiction to determine whether
5 the order is voidable and to vacate, modify, or reconsider
6 its terms based on a motion filed under paragraph (12) of
7 this subsection (d).

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

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

25 (16) The changes to this subsection (d) made by Public
26 Act 98-163 apply to all petitions pending on August 5, 2013

1 (the effective date of Public Act 98-163) and to all orders
2 ruling on a petition to expunge or seal on or after August
3 5, 2013 (the effective date of Public Act 98-163).

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

1 have access to all sealed records of the Department pertaining
2 to that individual. Upon entry of the order of expungement, the
3 circuit court clerk shall promptly mail a copy of the order to
4 the person who was pardoned.

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

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

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

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

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

25 (Source: P.A. 97-443, eff. 8-19-11; 97-698, eff. 1-1-13;
26 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.

1 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150,
2 eff. 1-25-13; 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
3 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,
4 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;
5 98-1009, eff. 1-1-15; revised 9-30-14.)

6 Section 10. The Cannabis Control Act is amended by changing
7 Section 4 as follows:

8 (720 ILCS 550/4) (from Ch. 56 1/2, par. 704)

9 Sec. 4. It is unlawful for any person knowingly to possess
10 cannabis. Any person who violates this section with respect to:

11 (a) not more than 15 ~~2.5~~ grams of any substance
12 containing cannabis is guilty of a civil law violation
13 punishable by a maximum fine of \$125. The proceeds of the
14 fine shall be payable to the clerk of the circuit court who
15 shall deposit the moneys from the fine into a special fund
16 in the county treasury. Within 30 days after the deposit of
17 the fine into the special fund, the county treasurer shall
18 distribute the proceeds of the fine as follows:

19 (1) \$10 of the fine to the circuit clerk and \$10 of
20 the fine to the law enforcement agency that issued the
21 citation; the proceeds of each \$10 fine distributed to
22 the circuit clerk and each \$10 fine distributed to the
23 law enforcement agency that issued the citation for the
24 violation shall be used to defer the cost of automatic

1 expungements under paragraph (2.5) of subsection (a)
2 of Section 5.2 of the Criminal Identification Act;

3 (2) \$15 to the county to fund drug addiction
4 services; and

5 (3) the remainder of the fine to the law
6 enforcement agency that issued the citation for the
7 violation ~~Class C misdemeanor;~~

8 (b) more than 15 ~~2.5~~ grams but not more than 30 ~~10~~
9 grams of any substance containing cannabis is guilty of a
10 Class B misdemeanor;

11 (c) more than 30 ~~10~~ grams but not more than 100 ~~30~~
12 grams of any substance containing cannabis is guilty of a
13 Class A misdemeanor; provided, that if any offense under
14 this subsection (c) is a subsequent offense, the offender
15 shall be guilty of a Class 4 felony;

16 (d) more than 100 ~~30~~ grams but not more than 500 grams
17 of any substance containing cannabis is guilty of a Class 4
18 felony; provided that if any offense under this subsection
19 (d) is a subsequent offense, the offender shall be guilty
20 of a Class 3 felony;

21 (e) more than 500 grams but not more than 2,000 grams
22 of any substance containing cannabis is guilty of a Class 3
23 felony;

24 (f) more than 2,000 grams but not more than 5,000 grams
25 of any substance containing cannabis is guilty of a Class 2
26 felony;

1 (g) more than 5,000 grams of any substance containing
2 cannabis is guilty of a Class 1 felony.

3 (Source: P.A. 90-397, eff. 8-15-97.)

4 Section 15. The Drug Paraphernalia Control Act is amended
5 by changing Section 3.5 as follows:

6 (720 ILCS 600/3.5)

7 Sec. 3.5. Possession of drug paraphernalia.

8 (a) A person who knowingly possesses an item of drug
9 paraphernalia with the intent to use it in ingesting, inhaling,
10 or otherwise introducing cannabis or a controlled substance
11 into the human body, or in preparing cannabis or a controlled
12 substance for that use, is guilty of a Class A misdemeanor for
13 which the court shall impose a minimum fine of \$750 in addition
14 to any other penalty prescribed for a Class A misdemeanor. This
15 subsection (a) does not apply to a person who is legally
16 authorized to possess hypodermic syringes or needles under the
17 Hypodermic Syringes and Needles Act.

18 (b) In determining intent under subsection (a), the trier
19 of fact may take into consideration the proximity of the
20 cannabis or controlled substances to drug paraphernalia or the
21 presence of cannabis or a controlled substance on the drug
22 paraphernalia.

23 (c) If a person violates subsection (a) of Section 4 of the
24 Cannabis Control Act, the penalty for possession of any drug

1 paraphernalia seized during the violation for that offense
2 shall be a civil law violation punishable by a maximum fine of
3 \$125. The proceeds of the fine shall be payable to the clerk of
4 the circuit court who shall deposit the moneys from the fine
5 into a special fund in the county treasury. Within 30 days
6 after the deposit of the fine into the special fund, the county
7 treasurer shall distribute the proceeds of the fine as follows:

8 (1) \$10 of the fine to the circuit clerk and \$10 of the
9 fine to the law enforcement agency that issued the
10 citation; the proceeds of each \$10 fine distributed to the
11 circuit clerk and each \$10 fine distributed to the law
12 enforcement agency that issued the citation for the
13 violation shall be used to defer the cost of automatic
14 expungements under paragraph (2.5) of subsection (a) of
15 Section 5.2 of the Criminal Identification Act;

16 (2) \$15 to the county to fund drug addiction services;
17 and

18 (3) the remainder of the fine to the law enforcement
19 agency that issued the citation for the violation.

20 (Source: P.A. 93-392, eff. 7-25-03.)".