



Rep. Elgie R. Sims, Jr.

Filed: 5/29/2015

09900SB1747ham002

LRB099 07934 MRW 36361 a

1 AMENDMENT TO SENATE BILL 1747

2 AMENDMENT NO. _____. Amend Senate Bill 1747 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Gun
5 Violence Intervention Court Act.

6 Section 5. Purpose. The General Assembly recognizes the
7 effectiveness of nationally-recognized gun violence
8 intervention programs targeting and identifying high-risk,
9 potentially violent offenders, and more importantly, those who
10 play a leadership role in collective groups of high-risk,
11 potentially violent offenders in reducing violent crime and
12 creating a positive impact upon recidivism. Collaboration
13 between local, State and federal law enforcement and
14 prosecutorial agencies, as well as social service groups,
15 community organizations, job training agencies, and
16 educational partnerships to communicate to certain instigators

1 of violence that the behavior will not be tolerated, and
2 evoking an immediate and intense response in which those
3 admonishments are not adhered to. In addition, and most
4 importantly, offering clear alternatives to promote and
5 incentivize job training and education programming to diminish
6 violence in communities across Illinois. To monitor the
7 progress of the offenders, this Act hereby creates a
8 specialized gun violence intervention court model for local
9 jurisdictions in this State to identify and communicate a zero
10 tolerance policy for violent gun crime, while offering social
11 service and community outreach to promote education and job
12 training, positively affecting recidivism rates, and long-term
13 anti-violence goals.

14 Section 10. Definitions. As used in this Act:

15 "Call-in" means targeted communication on behalf of a law
16 enforcement agency participating in gun violence intervention
17 court with a high-risk, potentially violent offender or group
18 of offenders, advising the persons of the consequences of
19 continued illegal behavior while offering alternatives to
20 promote non-criminal behavior.

21 "Combination gun court program" means a gun court program
22 that involves a pre-adjudicatory gun court program and a
23 post-adjudicatory gun court program.

24 "Department" means the Department of Corrections.

25 "Gun violence intervention court", "gun court", or

1 "program" means an immediate and highly structured criminal
2 justice process by which law enforcement agencies collaborate
3 with local community organizations to identify particularly
4 high-risk violent offenders, and high-risk violent offenders
5 within groups of violent offenders, and communicate potential
6 sanctions for the continuance of certain illegal behaviors. As
7 part of the intervention, alternatives to non-violent behavior
8 are presented, such as job training, education, and counseling
9 services. If violent behaviors continue resulting in violation
10 of gun court program conditions, the offender is entered into
11 an intensive and specialized prosecution and court call, in
12 which prior warnings of criminal sanction are carried out. If
13 incarceration is entered as part of the disposition, social
14 service and educational programs are offered in order to
15 promote positive behavioral change, along with continued
16 monitoring and services during periods of mandatory supervised
17 release.

18 "Gun violence intervention professional" means a member of
19 the gun court team, including, but not limited to, a judge,
20 prosecutor, defense attorney, probation officer, coordinator,
21 treatment provider, educator, or behavioral or mental health
22 counselor.

23 "Post-adjudicatory gun court program" means a program in
24 which the defendant has admitted guilt, or has been found
25 guilty, and the court agrees to permit the defendant to receive
26 specialized programming while serving his or her sentence.

1 "Pre-adjudicatory gun court program" means a program that
2 allows the defendant, with the consent of the prosecution, to
3 expedite the defendant's criminal case before conviction or
4 before filing of a criminal case and requires successful
5 completion of individualized programming as part of the
6 agreement.

7 Section 15. Authorization. The Chief Judge of each judicial
8 circuit may establish a gun violence intervention court, and if
9 the gun court is established, shall implement the gun court and
10 enter dispositions under this Act.

11 Section 20. Eligibility.

12 (a) A defendant may be admitted into a pre-adjudicatory gun
13 court program at the recommendation of a local, State, or
14 federal law enforcement agency which has participated in a
15 call-in with the defendant, with the agreement of the
16 prosecutor and with the approval of the court, for any
17 violation under Article 24 of the Criminal Code of 2012, upon
18 agreement of the defendant to enter into a pre-adjudicatory gun
19 court program.

20 (b) A defendant may be admitted into a post-adjudicatory
21 gun court program at the recommendation of a local, State, or
22 federal law enforcement agency which has participated in a
23 call-in with the defendant, with the agreement of the
24 prosecutor and with the approval of the court, for a violation

1 under Section 24-1.8, subsection (a) of Section 24-1.1,
2 paragraph (2), (3), (4), (5), or (6) of subsection (a) of
3 Section 24-1.2, or a Class 2 or greater felony under Section
4 24-1.6 of the Criminal Code of 2012, whether or not the
5 defendant agrees to be entered into a post-adjudicatory gun
6 court program.

7 (c) A defendant may be admitted into a combination gun
8 court program if during a pre-adjudicatory gun court program
9 under subsection (a) of this Section, he or she commits an
10 offense under subsection (b) of this Section.

11 Section 25. Pre-adjudicatory gun court program procedure.

12 (a) The court shall order an eligibility screening and an
13 assessment of the defendant by a team of gun court
14 professionals. The assessment shall include an individualized
15 risk assessment of the offender. The assessment shall also
16 identify community cooperatives that can assist with job
17 training, job placement, educational opportunities, or mental
18 health and behavioral counseling, if appropriate. The gun court
19 professionals shall submit a series of recommendations for
20 programming, and individualized monitoring and court
21 scheduling to ensure compliance with the recommended
22 programming.

23 (b) The court shall inform the defendant that if he or she
24 fails to meet the conditions of the gun court program,
25 eligibility to participate in the program may be revoked and

1 the prosecution shall continue for the underlying violation.

2 (c) The defendant shall execute a written and oral
3 agreement as to his or her participation in the program and
4 shall agree to all conditions of the program, including, but
5 not limited to, compliance with monitoring, court appearances,
6 job training, education training, or substance abuse,
7 behavioral health or mental health counseling as an outpatient,
8 inpatient, residential, or jail-based custodial treatment
9 program, and including, but not limited to, sanctions or
10 incarceration for failing to abide or comply with the terms of
11 the program.

12 (d) The gun court program shall include a regimen of
13 graduated requirements and rewards and sanctions, including,
14 but not limited to: fines, fees, costs, restitution,
15 incarceration of up to 180 days, individual and group therapy,
16 drug analysis testing, close monitoring by the court at a
17 minimum of once every 30 days and supervision of progress,
18 educational or vocational counseling as appropriate, and other
19 requirements necessary to fulfill the gun court program at the
20 recommendation of the gun court professionals.

21 (e) If the court finds from the evidence presented
22 including, but not limited, to the reports or proffers of proof
23 from the gun court professionals that:

24 (1) the defendant is not performing satisfactorily in
25 the assigned program;

26 (2) the defendant is not benefitting from education,

1 treatment, or rehabilitation;

2 (3) the defendant has engaged in criminal conduct
3 rendering him or her unsuitable for the program; or

4 (4) the defendant has otherwise violated the terms and
5 conditions of the program or his or her sentence or is for
6 any reason unable to participate; the court may impose
7 reasonable sanctions under prior written agreement of the
8 defendant, including, but not limited to, imprisonment or
9 dismissal of the defendant from the program and the court
10 may conduct criminal proceedings against him or her or
11 proceed under Section 5-6-4 of the Unified Code of
12 Corrections for a violation of probation, conditional
13 discharge, or supervision hearing.

14 (f) If the defendant successfully completes the
15 pre-adjudicatory gun court program, the court may consider this
16 at sentencing.

17 Section 30. Post-adjudicatory gun court program.

18 (a) The gun court may permit the prosecution for any
19 violation under subsection (b) of Section 20 of this Act to
20 proceed under this Act.

21 (b) If a person is found guilty of a violation under
22 subsection (b) of Section 20 of this Act, the court may order
23 an eligibility screening and assessment of the defendant. The
24 assessment shall include an individualized risk assessment of
25 the offender. The assessment shall also identify community

1 cooperatives that can assist with job training, job placement,
2 educational opportunities, or mental health and behavioral
3 counseling, when appropriate. The gun court professionals
4 shall submit a series of recommendations for programming, and
5 individualized monitoring and court scheduling to ensure
6 compliance with the recommended programming. The assessment
7 shall include programming recommendations for the defendant
8 while incarcerated, and upon release and reentry into society.

9 Section 35. Education seminars for judges. The
10 Administrative Office of the Illinois Courts may conduct
11 education seminars throughout this State on how to operate gun
12 court programs under this Act.

13 Section 105. The Department of State Police Law of the
14 Civil Administrative Code of Illinois is amended by adding
15 Section 2605-51 as follows:

16 (20 ILCS 2605/2605-51 new)

17 Sec. 2605-51. Sex Offenses and Sex Offender Registration
18 Task Force.

19 (a) The General Assembly acknowledges that numerous
20 criminal offenses that are categorized as sex offenses are
21 serious crimes that affect some of the most vulnerable victims.

22 (1) The Sex Offender Database was created as a
23 statewide database for the purpose of making information

1 regarding sex offenders publicly available so that victims
2 may be aware of released offenders and law enforcement may
3 have a tool to identify potential perpetrators of current
4 offenses. In addition to the Registry, sex offenders may be
5 subject to specific conditions and prohibitions for a
6 period after the person's release from imprisonment that
7 restricts where the person may reside, travel, and work.

8 (2) The General Assembly recognizes that the current
9 Sex Offender Database and sex offender restrictions do not
10 assess or differentiate based upon the specific risks of
11 each offender, potential threat to public safety, or an
12 offender's likelihood of reoffending.

13 (3) The General Assembly believes that a Task Force
14 should be created to ensure that law enforcement and
15 communities are able to identify the high-risk sex
16 offenders and focus on monitoring those offenders to
17 protect victims, improve public safety, and maintain the
18 seriousness of each offense.

19 (b) Sex Offenses and Sex Offender Registration Task Force.

20 (1) The Sex Offenses and Sex Offender Registration Task
21 Force is created to examine current offenses that require
22 offenders to register as sex offenders, conditions and
23 restrictions for registered sex offenders, and the
24 registration process.

25 (2) The Task Force shall hold public hearings at the
26 call of the co-chairpersons to receive testimony from the

1 public and make recommendations to the General Assembly
2 regarding legislative changes to more effectively classify
3 sex offenders based on their level of risk of re-offending,
4 better direct resources to monitor the most violent and
5 high risk offenders, and to ensure public safety.

6 (3) The Task Force shall be an independent Task Force
7 under the Department of State Police for administrative
8 purposes, and shall consist of the following members:

9 (A) the Director of Corrections, or his or her
10 designee;

11 (B) 2 members of the House of Representatives
12 appointed by the Speaker of the House of
13 Representatives, one of whom shall serve as
14 co-chairperson;

15 (C) 2 members of the Senate appointed by the
16 President of the Senate, one of whom shall serve as a
17 co-chairperson;

18 (D) a member of the Senate appointed by the
19 Minority Leader of the Senate;

20 (E) a member of the House of Representatives
21 appointed by the Minority Leader of the House of
22 Representatives;

23 (F) the Director of State Police, or his or her
24 designee;

25 (G) a representative of a statewide organization
26 against sexual assault, appointed by the Director of

1 State Police;

2 (H) a representative of a statewide organization
3 representing probation and court services agencies in
4 Illinois, appointed by the Director of State Police;
5 and

6 (I) a representative of a statewide organization
7 representing Illinois sheriffs, appointed by the
8 Director of State Police;

9 (J) a representative of a statewide organization
10 representing Illinois police chiefs, appointed by the
11 Director of State Police;

12 (K) 2 State's Attorneys to be appointed by the
13 members of the Task Force; and

14 (L) 2 sex offender treatment providers, appointed
15 by the Director of State Police.

16 (c) The Task Force shall submit a written report of its
17 findings and recommendations to the General Assembly on or
18 before January 1, 2017.

19 (d) This Section is repealed on January 1, 2018.

20 Section 110. The Criminal Identification Act is amended by
21 changing Sections 3.1 and 5.2 as follows:

22 (20 ILCS 2630/3.1) (from Ch. 38, par. 206-3.1)

23 Sec. 3.1. (a) The Department may furnish, pursuant to
24 positive identification, records of convictions to the

1 Department of Financial and Professional Regulation for the
2 purpose of meeting registration or licensure requirements
3 under the Private Detective, Private Alarm, Private Security,
4 Fingerprint Vendor, and Locksmith Act of 2004 or the Pharmacy
5 Practice Act.

6 (b) The Department may furnish, pursuant to positive
7 identification, records of convictions to policing bodies of
8 this State for the purpose of assisting local liquor control
9 commissioners in carrying out their duty to refuse to issue
10 licenses to persons specified in paragraphs (4), (5) and (6) of
11 Section 6-2 of the Liquor Control Act of 1934.

12 (c) The Department shall charge an application fee, based
13 on actual costs, for the dissemination of records pursuant to
14 this Section. Fees received for the dissemination of records
15 pursuant to this Section shall be deposited in the State Police
16 Services Fund. The Department is empowered to establish this
17 fee and to prescribe the form and manner for requesting and
18 furnishing conviction information pursuant to this Section.

19 (d) Any dissemination of any information obtained pursuant
20 to this Section to any person not specifically authorized
21 hereby to receive or use it for the purpose for which it was
22 disseminated shall constitute a violation of Section 7.

23 (Source: P.A. 95-613, eff. 9-11-07.)

24 (20 ILCS 2630/5.2)

25 Sec. 5.2. Expungement and sealing.

1 (a) General Provisions.

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

5 (A) The following terms shall have the meanings
6 ascribed to them in the Unified Code of Corrections,
7 730 ILCS 5/5-1-2 through 5/5-1-22:

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

9 (ii) Charge (730 ILCS 5/5-1-3),

10 (iii) Court (730 ILCS 5/5-1-6),

11 (iv) Defendant (730 ILCS 5/5-1-7),

12 (v) Felony (730 ILCS 5/5-1-9),

13 (vi) Imprisonment (730 ILCS 5/5-1-10),

14 (vii) Judgment (730 ILCS 5/5-1-12),

15 (viii) Misdemeanor (730 ILCS 5/5-1-14),

16 (ix) Offense (730 ILCS 5/5-1-15),

17 (x) Parole (730 ILCS 5/5-1-16),

18 (xi) Petty Offense (730 ILCS 5/5-1-17),

19 (xii) Probation (730 ILCS 5/5-1-18),

20 (xiii) Sentence (730 ILCS 5/5-1-19),

21 (xiv) Supervision (730 ILCS 5/5-1-21), and

22 (xv) Victim (730 ILCS 5/5-1-22).

23 (B) As used in this Section, "charge not initiated
24 by arrest" means a charge (as defined by 730 ILCS
25 5/5-1-3) brought against a defendant where the
26 defendant is not arrested prior to or as a direct

1 result of the charge.

2 (C) "Conviction" means a judgment of conviction or
3 sentence entered upon a plea of guilty or upon a
4 verdict or finding of guilty of an offense, rendered by
5 a legally constituted jury or by a court of competent
6 jurisdiction authorized to try the case without a jury.
7 An order of supervision successfully completed by the
8 petitioner is not a conviction. An order of qualified
9 probation (as defined in subsection (a)(1)(J))
10 successfully completed by the petitioner is not a
11 conviction. An order of supervision or an order of
12 qualified probation that is terminated
13 unsatisfactorily is a conviction, unless the
14 unsatisfactory termination is reversed, vacated, or
15 modified and the judgment of conviction, if any, is
16 reversed or vacated.

17 (D) "Criminal offense" means a petty offense,
18 business offense, misdemeanor, felony, or municipal
19 ordinance violation (as defined in subsection
20 (a)(1)(H)). As used in this Section, a minor traffic
21 offense (as defined in subsection (a)(1)(G)) shall not
22 be considered a criminal offense.

23 (E) "Expunge" means to physically destroy the
24 records or return them to the petitioner and to
25 obliterate the petitioner's name from any official
26 index or public record, or both. Nothing in this Act

1 shall require the physical destruction of the circuit
2 court file, but such records relating to arrests or
3 charges, or both, ordered expunged shall be impounded
4 as required by subsections (d)(9)(A)(ii) and
5 (d)(9)(B)(ii).

6 (F) As used in this Section, "last sentence" means
7 the sentence, order of supervision, or order of
8 qualified probation (as defined by subsection
9 (a)(1)(J)), for a criminal offense (as defined by
10 subsection (a)(1)(D)) that terminates last in time in
11 any jurisdiction, regardless of whether the petitioner
12 has included the criminal offense for which the
13 sentence or order of supervision or qualified
14 probation was imposed in his or her petition. If
15 multiple sentences, orders of supervision, or orders
16 of qualified probation terminate on the same day and
17 are last in time, they shall be collectively considered
18 the "last sentence" regardless of whether they were
19 ordered to run concurrently.

20 (G) "Minor traffic offense" means a petty offense,
21 business offense, or Class C misdemeanor under the
22 Illinois Vehicle Code or a similar provision of a
23 municipal or local ordinance.

24 (H) "Municipal ordinance violation" means an
25 offense defined by a municipal or local ordinance that
26 is criminal in nature and with which the petitioner was

1 charged or for which the petitioner was arrested and
2 released without charging.

3 (I) "Petitioner" means an adult or a minor
4 prosecuted as an adult who has applied for relief under
5 this Section.

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

25 (K) "Seal" means to physically and electronically
26 maintain the records, unless the records would

1 otherwise be destroyed due to age, but to make the
2 records unavailable without a court order, subject to
3 the exceptions in Sections 12 and 13 of this Act. The
4 petitioner's name shall also be obliterated from the
5 official index required to be kept by the circuit court
6 clerk under Section 16 of the Clerks of Courts Act, but
7 any index issued by the circuit court clerk before the
8 entry of the order to seal shall not be affected.

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

13 (M) "Terminate" as it relates to a sentence or
14 order of supervision or qualified probation includes
15 either satisfactory or unsatisfactory termination of
16 the sentence, unless otherwise specified in this
17 Section.

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

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

25 (A) the sealing or expungement of the records of
26 arrests or charges not initiated by arrest that result

1 in an order of supervision for or conviction of: (i)
2 any sexual offense committed against a minor; (ii)
3 Section 11-501 of the Illinois Vehicle Code or a
4 similar provision of a local ordinance; or (iii)
5 Section 11-503 of the Illinois Vehicle Code or a
6 similar provision of a local ordinance, unless the
7 arrest or charge is for a misdemeanor violation of
8 subsection (a) of Section 11-503 or a similar provision
9 of a local ordinance, that occurred prior to the
10 offender reaching the age of 25 years and the offender
11 has no other conviction for violating Section 11-501 or
12 11-503 of the Illinois Vehicle Code or a similar
13 provision of a local ordinance.

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

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

22 (i) offenses included in Article 11 of the
23 Criminal Code of 1961 or the Criminal Code of 2012
24 or a similar provision of a local ordinance, except
25 Section 11-14 of the Criminal Code of 1961 or the
26 Criminal Code of 2012, or a similar provision of a

1 local ordinance;

2 (ii) Section 11-1.50, 12-3.4, 12-15, 12-30,
3 26-5, or 48-1 of the Criminal Code of 1961 or the
4 Criminal Code of 2012, or a similar provision of a
5 local ordinance;

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

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

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

16 (D) the sealing of the records of an arrest which
17 results in the petitioner being charged with a felony
18 offense or records of a charge not initiated by arrest
19 for a felony offense unless:

20 (i) the charge is amended to a misdemeanor and
21 is otherwise eligible to be sealed pursuant to
22 subsection (c);

23 (ii) the charge is brought along with another
24 charge as a part of one case and the charge results
25 in acquittal, dismissal, or conviction when the
26 conviction was reversed or vacated, and another

1 charge brought in the same case results in a
2 disposition for a misdemeanor offense that is
3 eligible to be sealed pursuant to subsection (c) or
4 a disposition listed in paragraph (i), (iii), or
5 (iv) of this subsection;

6 (iii) the charge results in first offender
7 probation as set forth in subsection (c) (2) (E);

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

11 (v) the charge results in acquittal,
12 dismissal, or the petitioner's release without
13 conviction; or

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

16 (b) Expungement.

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

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

22 (B) Each arrest or charge not initiated by arrest
23 sought to be expunged resulted in: (i) acquittal,
24 dismissal, or the petitioner's release without
25 charging, unless excluded by subsection (a) (3) (B);
26 (ii) a conviction which was vacated or reversed, unless

1 excluded by subsection (a)(3)(B); (iii) an order of
2 supervision and such supervision was successfully
3 completed by the petitioner, unless excluded by
4 subsection (a)(3)(A) or (a)(3)(B); or (iv) an order of
5 qualified probation (as defined in subsection
6 (a)(1)(J)) and such probation was successfully
7 completed by the petitioner.

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

9 (A) When the arrest or charge not initiated by
10 arrest sought to be expunged resulted in an acquittal,
11 dismissal, the petitioner's release without charging,
12 or the reversal or vacation of a conviction, there is
13 no waiting period to petition for the expungement of
14 such records.

15 (B) When the arrest or charge not initiated by
16 arrest sought to be expunged resulted in an order of
17 supervision, successfully completed by the petitioner,
18 the following time frames will apply:

19 (i) Those arrests or charges that resulted in
20 orders of supervision under Section 3-707, 3-708,
21 3-710, or 5-401.3 of the Illinois Vehicle Code or a
22 similar provision of a local ordinance, or under
23 Section 11-1.50, 12-3.2, or 12-15 of the Criminal
24 Code of 1961 or the Criminal Code of 2012, or a
25 similar provision of a local ordinance, shall not
26 be eligible for expungement until 5 years have

1 passed following the satisfactory termination of
2 the supervision.

3 (i-5) Those arrests or charges that resulted
4 in orders of supervision for a misdemeanor
5 violation of subsection (a) of Section 11-503 of
6 the Illinois Vehicle Code or a similar provision of
7 a local ordinance, that occurred prior to the
8 offender reaching the age of 25 years and the
9 offender has no other conviction for violating
10 Section 11-501 or 11-503 of the Illinois Vehicle
11 Code or a similar provision of a local ordinance
12 shall not be eligible for expungement until the
13 petitioner has reached the age of 25 years.

14 (ii) Those arrests or charges that resulted in
15 orders of supervision for any other offenses shall
16 not be eligible for expungement until 2 years have
17 passed following the satisfactory termination of
18 the supervision.

19 (C) When the arrest or charge not initiated by
20 arrest sought to be expunged resulted in an order of
21 qualified probation, successfully completed by the
22 petitioner, such records shall not be eligible for
23 expungement until 5 years have passed following the
24 satisfactory termination of the probation.

25 (3) Those records maintained by the Department for
26 persons arrested prior to their 17th birthday shall be

1 expunged as provided in Section 5-915 of the Juvenile Court
2 Act of 1987.

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

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

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

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

1 determined to be innocent as provided in subsection (b) of
2 Section 5-5-4 of the Unified Code of Corrections.

3 (7) Nothing in this Section shall prevent the
4 Department of State Police from maintaining all records of
5 any person who is admitted to probation upon terms and
6 conditions and who fulfills those terms and conditions
7 pursuant to Section 10 of the Cannabis Control Act, Section
8 410 of the Illinois Controlled Substances Act, Section 70
9 of the Methamphetamine Control and Community Protection
10 Act, 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 Alcoholism and Other Drug Abuse and Dependency Act, or
16 Section 10 of the Steroid Control Act.

17 (8) If the petitioner has been granted a certificate of
18 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 rights

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

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

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

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

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

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

21 (E) Arrests or charges not initiated by arrest
22 resulting in orders of first offender probation under
23 Section 10 of the Cannabis Control Act, Section 410 of
24 the Illinois Controlled Substances Act, Section 70 of
25 the Methamphetamine Control and Community Protection
26 Act, or Section 5-6-3.3 of the Unified Code of

1 Corrections; and

2 (F) Arrests or charges not initiated by arrest
3 resulting in felony convictions for the following
4 offenses:

5 (i) Class 4 felony convictions for:

6 Prostitution under Section 11-14 of the
7 Criminal Code of 1961 or the Criminal Code of
8 2012.

9 Possession of cannabis under Section 4 of
10 the Cannabis Control Act.

11 Possession with intent to manufacture or
12 deliver cannabis under Section 5 of the
13 Cannabis Control Act.

14 Possession of a controlled substance under
15 Section 402 of the Illinois Controlled
16 Substances Act.

17 Offenses under the Methamphetamine
18 Precursor Control Act.

19 Offenses under the Steroid Control Act.

20 Theft under Section 16-1 of the Criminal
21 Code of 1961 or the Criminal Code of 2012.

22 Retail theft under Section 16A-3 or
23 paragraph (a) of 16-25 of the Criminal Code of
24 1961 or the Criminal Code of 2012.

25 Deceptive practices under Section 17-1 of
26 the Criminal Code of 1961 or the Criminal Code

1 of 2012.

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

4 Possession of burglary tools under Section
5 19-2 of the Criminal Code of 1961 or the
6 Criminal Code of 2012.

7 (ii) Class 3 felony convictions for:

8 Theft under Section 16-1 of the Criminal
9 Code of 1961 or the Criminal Code of 2012.

10 Retail theft under Section 16A-3 or
11 paragraph (a) of 16-25 of the Criminal Code of
12 1961 or the Criminal Code of 2012.

13 Deceptive practices under Section 17-1 of
14 the Criminal Code of 1961 or the Criminal Code
15 of 2012.

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

18 Possession with intent to manufacture or
19 deliver cannabis under Section 5 of the
20 Cannabis Control Act.

21 Possession with intent to manufacture or
22 deliver a controlled substance under Section
23 401 of the Illinois Controlled Substances Act.

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

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

4 (B) Records identified as eligible under
5 subsection (c) (2) (C) may be sealed (i) 3 years after
6 the termination of petitioner's last sentence (as
7 defined in subsection (a) (1) (F)) if the petitioner has
8 never been convicted of a criminal offense (as defined
9 in subsection (a) (1) (D)); or (ii) 4 years after the
10 termination of the petitioner's last sentence (as
11 defined in subsection (a) (1) (F)) if the petitioner has
12 ever been convicted of a criminal offense (as defined
13 in subsection (a) (1) (D)).

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

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 (4) Subsequent felony convictions. A person may not
23 have subsequent felony conviction records sealed as
24 provided in this subsection (c) if he or she is convicted
25 of any felony offense after the date of the sealing of
26 prior felony convictions as provided in this subsection

1 (c). The court may, upon conviction for a subsequent felony
2 offense, order the unsealing of prior felony conviction
3 records previously ordered sealed by the court.

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

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

12 (1) Filing the petition. Upon becoming eligible to
13 petition for the expungement or sealing of records under
14 this Section, the petitioner shall file a petition
15 requesting the expungement or sealing of records with the
16 clerk of the court where the arrests occurred or the
17 charges were brought, or both. If arrests occurred or
18 charges were brought in multiple jurisdictions, a petition
19 must be filed in each such jurisdiction. The petitioner
20 shall pay the applicable fee, if not waived.

21 (2) Contents of petition. The petition shall be
22 verified and shall contain the petitioner's name, date of
23 birth, current address and, for each arrest or charge not
24 initiated by arrest sought to be sealed or expunged, the
25 case number, the date of arrest (if any), the identity of
26 the arresting authority, and such other information as the

1 court may require. During the pendency of the proceeding,
2 the petitioner shall promptly notify the circuit court
3 clerk of any change of his or her address. If the
4 petitioner has received a certificate of eligibility for
5 sealing from the Prisoner Review Board under paragraph (10)
6 of subsection (a) of Section 3-3-2 of the Unified Code of
7 Corrections, the certificate shall be attached to the
8 petition.

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

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

18 (B) seal felony records for a violation of the
19 Illinois Controlled Substances Act, the
20 Methamphetamine Control and Community Protection Act,
21 or the Cannabis Control Act under clause (c) (2) (F);

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

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

25 (4) Service of petition. The circuit court clerk shall
26 promptly serve a copy of the petition and documentation to

1 support the petition under subsection (e-5) or (e-6) on the
2 State's Attorney or prosecutor charged with the duty of
3 prosecuting the offense, the Department of State Police,
4 the arresting agency and the chief legal officer of the
5 unit of local government effecting the arrest.

6 (5) Objections.

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

15 (B) Objections to a petition to expunge or seal
16 must be filed within 60 days of the date of service of
17 the petition.

18 (6) Entry of order.

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

26 (B) Unless the State's Attorney or prosecutor, the

1 Department of State Police, the arresting agency, or
2 the chief legal officer files an objection to the
3 petition to expunge or seal within 60 days from the
4 date of service of the petition, the court shall enter
5 an order granting or denying the petition.

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

18 (A) the strength of the evidence supporting the
19 defendant's conviction;

20 (B) the reasons for retention of the conviction
21 records by the State;

22 (C) the petitioner's age, criminal record history,
23 and employment history;

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

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

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

12 (9) Implementation of order.

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

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

22 (ii) the records of the circuit court clerk
23 shall be impounded until further order of the court
24 upon good cause shown and the name of the
25 petitioner obliterated on the official index
26 required to be kept by the circuit court clerk

1 under Section 16 of the Clerks of Courts Act, but
2 the order shall not affect any index issued by the
3 circuit court clerk before the entry of the order;
4 and

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (v) in response to an inquiry for these records

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

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

15 (D) The Department shall send written notice to the
16 petitioner of its compliance with each order to expunge
17 or seal records within 60 days of the date of service
18 of that order or, if a motion to vacate, modify, or
19 reconsider is filed, within 60 days of service of the
20 order resolving the motion, if that order requires the
21 Department to expunge or seal records. In the event of
22 an appeal from the circuit court order, the Department
23 shall send written notice to the petitioner of its
24 compliance with an Appellate Court or Supreme Court
25 judgment to expunge or seal records within 60 days of
26 the issuance of the court's mandate. The notice is not

1 required while any motion to vacate, modify, or
2 reconsider, or any appeal or petition for
3 discretionary appellate review, is pending.

4 (10) Fees. The Department may charge the petitioner a
5 fee equivalent to the cost of processing any order to
6 expunge or seal records. Notwithstanding any provision of
7 the Clerks of Courts Act to the contrary, the circuit court
8 clerk may charge a fee equivalent to the cost associated
9 with the sealing or expungement of records by the circuit
10 court clerk. From the total filing fee collected for the
11 petition to seal or expunge, the circuit court clerk shall
12 deposit \$10 into the Circuit Court Clerk Operation and
13 Administrative Fund, to be used to offset the costs
14 incurred by the circuit court clerk in performing the
15 additional duties required to serve the petition to seal or
16 expunge on all parties. The circuit court clerk shall
17 collect and forward the Department of State Police portion
18 of the fee to the Department and it shall be deposited in
19 the State Police Services Fund.

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

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

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

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

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

1 appealing the order.

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

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

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

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

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

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

21 (e-6) Whenever a person who has been convicted of an
22 offense is granted a certificate of eligibility for expungement
23 by the Prisoner Review Board which specifically authorizes
24 expungement, he or she may, upon verified petition to the Chief
25 Judge of the circuit where the person had been convicted, any
26 judge of the circuit designated by the Chief Judge, or in

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

25 (f) Subject to available funding, the Illinois Department
26 of Corrections shall conduct a study of the impact of sealing,

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

11 (Source: P.A. 97-443, eff. 8-19-11; 97-698, eff. 1-1-13;
12 97-1026, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.
13 1-1-13; 97-1118, eff. 1-1-13; 97-1120, eff. 1-1-13; 97-1150,
14 eff. 1-25-13; 98-133, eff. 1-1-14; 98-142, eff. 1-1-14; 98-163,
15 eff. 8-5-13; 98-164, eff. 1-1-14; 98-399, eff. 8-16-13; 98-635,
16 eff. 1-1-15; 98-637, eff. 1-1-15; 98-756, eff. 7-16-14;
17 98-1009, eff. 1-1-15; revised 9-30-14.)

18 Section 113. The Nursing Home Care Act is amended by
19 changing Section 3-206.01 as follows:

20 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.
21 4153-206.01)

22 Sec. 3-206.01. Health care worker registry.

23 (a) The Department shall establish and maintain a Health
24 care worker registry accessible by health care employers that

1 includes background check and training information of all
2 individuals who (i) have satisfactorily completed the training
3 required by Section 3-206, (ii) have begun a current course of
4 training as set forth in Section 3-206, or (iii) are otherwise
5 acting as a nursing assistant, habilitation aide, home health
6 aide, psychiatric services rehabilitation aide, or child care
7 aide. ~~The registry shall include the individual's name, his or~~
8 ~~her current address, Social Security number, and the date and~~
9 ~~location of the training course completed by the individual,~~
10 ~~and whether the individual has any of the disqualifying~~
11 ~~convictions listed in Section 25 of the Health Care Worker~~
12 ~~Background Check Act from the date of the individual's last~~
13 ~~criminal records check.~~ Any individual placed on the registry
14 is required to inform the Department of any change of address
15 within 30 days. A facility shall not employ an individual as a
16 nursing assistant, habilitation aide, home health aide,
17 psychiatric services rehabilitation aide, or child care aide,
18 or newly hired as an individual who may have access to a
19 resident, a resident's living quarters, or a resident's
20 personal, financial, or medical records, unless the facility
21 has inquired of the Department's health care worker registry as
22 to information in the registry concerning the individual. The
23 facility shall not employ an individual as a nursing assistant,
24 habilitation aide, or child care aide if that individual is not
25 on the registry unless the individual is enrolled in a training
26 program under paragraph (5) of subsection (a) of Section 3-206

1 of this Act. The Department may also maintain a public
2 accessible registry.

3 (a-5) The registry maintained by the Department exclusive
4 to health care employers shall clearly indicate whether an
5 applicant or employee is eligible for employment and shall
6 include the following:

7 (1) Information about the individual, including the
8 individual's name, his or her current address, social
9 security number, the date and location of the training
10 course completed by the individual, whether the individual
11 has any of the disqualifying convictions listed in Section
12 25 of the Health Care Worker Background Check Act from the
13 date of the individual's last criminal record check,
14 whether the individual has a waiver pending under Section
15 40 of this Act, and whether the individual has received a
16 waiver under Section 40 of the Health Care Worker
17 Background Check Act.

18 (2) The following language:

19 "A waiver granted by the Department of Public
20 Health is a determination that the applicant or
21 employee is eligible to work in a health care facility.
22 Using criminal history information to make employment
23 decisions may violate Title VII of the Civil Rights Act
24 of 1964, as amended (Title VII), see Equal Employment
25 Opportunity Commission (EEOC) enforcement guidance for
26 more information".

1 (3) A link to Equal Employment Opportunity Commission
2 guidance regarding hiring of individuals with criminal
3 records.

4 (a-10) The Department shall not post specific information
5 regarding disqualifying offenses, including the charge or date
6 of an offense, on the registry.

7 (a-15) After June 30, 2016, the publicly accessible
8 registry maintained by the Department shall report that an
9 individual is ineligible to work if he or she has a
10 disqualifying offense under Section 25 of the Health Care
11 Worker Background Check Act and has not received a waiver under
12 Section 40 of that Act. If an applicant or employee has
13 received a waiver for one or more disqualifying offenses under
14 Section 40 of the Health Care Worker Background Check Act and
15 he or she is otherwise eligible to work, the Department of
16 Public Health shall report on the public registry that the
17 applicant or employee is eligible to work. The Department,
18 however, shall not report information regarding the waiver on
19 the public registry.

20 (a-20) If the Department finds that a nursing assistant,
21 habilitation aide, home health aide, psychiatric services
22 rehabilitation aide, or child care aide, or an unlicensed
23 individual, has abused or neglected a resident or an individual
24 under his or her care or misappropriated property of a resident
25 or an individual under his or her care, the Department shall
26 notify the individual of this finding by certified mail sent to

1 the address contained in the registry. The notice shall give
2 the individual an opportunity to contest the finding in a
3 hearing before the Department or to submit a written response
4 to the findings in lieu of requesting a hearing. If, after a
5 hearing or if the individual does not request a hearing, the
6 Department finds that the individual abused a resident,
7 neglected a resident, or misappropriated resident property in a
8 facility, the finding shall be included as part of the registry
9 as well as a clear and accurate summary from the individual, if
10 he or she chooses to make such a statement. The Department
11 shall make the following information in the registry available
12 to the public: an individual's full name; the date an
13 individual successfully completed a nurse aide training or
14 competency evaluation; and whether the Department has made a
15 finding that an individual has been guilty of abuse or neglect
16 of a resident or misappropriation of resident property. In the
17 case of inquiries to the registry concerning an individual
18 listed in the registry, any information disclosed concerning
19 such a finding shall also include disclosure of the
20 individual's statement in the registry relating to the finding
21 or a clear and accurate summary of the statement.

22 (b) The Department shall add to the health care worker
23 registry records of findings as reported by the Inspector
24 General or remove from the health care worker registry records
25 of findings as reported by the Department of Human Services,
26 under subsection (s) ~~(g-5)~~ of Section 1-17 of the Department of

1 Human Services Act.

2 (Source: P.A. 95-545, eff. 8-28-07; 96-1372, eff. 7-29-10;
3 revised 12-10-14.)

4 Section 115. The Health Care Worker Background Check Act is
5 amended by changing Sections 25, 33, and 40 and by adding
6 Section 40.1 as follows:

7 (225 ILCS 46/25)

8 Sec. 25. Hiring of persons with criminal records ~~Persons~~
9 ~~ineligible to be hired~~ by health care employers and long-term
10 care facilities.

11 (a) A health care employer or long-term care facility may
12 hire, employ, or retain any individual in a position involving
13 direct care of clients, patients, or residents, or access to
14 the living quarters or the financial, medical, or personal
15 records of residents, who has been convicted of committing or
16 attempting to commit one or more of the following offenses only
17 with a waiver described in Section 40 ~~In the discretion of the~~
18 ~~Director of Public Health, as soon after January 1, 1996,~~
19 ~~January 1, 1997, January 1, 2006, or October 1, 2007, as~~
20 ~~applicable, and as is reasonably practical, no health care~~
21 ~~employer shall knowingly hire, employ, or retain any individual~~
22 ~~in a position with duties involving direct care for clients,~~
23 ~~patients, or residents, and no long term care facility shall~~
24 ~~knowingly hire, employ, or retain any individual in a position~~

1 ~~with duties that involve or may involve contact with residents~~
2 ~~or access to the living quarters or the financial, medical, or~~
3 ~~personal records of residents, who has been convicted of~~
4 ~~committing or attempting to commit one or more of the following~~
5 offenses: those defined in Sections 8-1(b), 8-1.1, 8-1.2, 9-1,
6 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 9-3.4, 10-1, 10-2,
7 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-1.20, 11-1.30, 11-1.40,
8 11-1.50, 11-1.60, 11-6, 11-9.1, 11-9.5, 11-19.2, 11-20.1,
9 11-20.1B, 11-20.3, 12-1, 12-2, 12-3.05, 12-3.1, 12-3.2,
10 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6,
11 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16,
12 12-19, 12-21, 12-21.6, 12-32, 12-33, 12C-5, 16-1, 16-1.3,
13 16-25, 16A-3, 17-3, 17-56, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1,
14 19-3, 19-4, 19-6, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2,
15 or subdivision (a)(4) of Section 11-14.4, or in subsection (a)
16 of Section 12-3 or subsection (a) or (b) of Section 12-4.4a, of
17 the Criminal Code of 1961 or the Criminal Code of 2012; those
18 provided in Section 4 of the Wrongs to Children Act; those
19 provided in Section 53 of the Criminal Jurisprudence Act; those
20 defined in subsection (c), (d), (e), (f), or (g) of Section 5
21 and Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act;
22 those defined in the Methamphetamine Control and Community
23 Protection Act; or those defined in Sections 401, 401.1, 404,
24 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances
25 Act, ~~unless the applicant or employee obtains a waiver~~
26 ~~pursuant to Section 40.~~

1 (a-1) A health care employer or long-term care facility may
2 hire, employ, or retain any individual in a position involving
3 direct care of clients, patients, or residents, or access to
4 the living quarters or the financial, medical, or personal
5 records of residents, who has been convicted of committing or
6 attempting to commit one or more of the following offenses only
7 with a waiver described in Section 40: those ~~In the discretion~~
8 ~~of the Director of Public Health, as soon after January 1, 2004~~
9 ~~or October 1, 2007, as applicable, and as is reasonably~~
10 ~~practical, no health care employer shall knowingly hire any~~
11 ~~individual in a position with duties involving direct care for~~
12 ~~clients, patients, or residents, and no long-term care facility~~
13 ~~shall knowingly hire any individual in a position with duties~~
14 ~~that involve or may involve contact with residents or access to~~
15 ~~the living quarters or the financial, medical, or personal~~
16 ~~records of residents, who has (i) been convicted of committing~~
17 ~~or attempting to commit one or more of the offenses defined in~~
18 Section 12-3.3, 12-4.2-5, 16-2, 16-30, 16G-15, 16G-20, 17-33,
19 17-34, 17-36, 17-44, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6,
20 24-3.2, or 24-3.3, or subsection (b) of Section 17-32,
21 subsection (b) of Section 18-1, or subsection (b) of Section
22 20-1, of the Criminal Code of 1961 or the Criminal Code of
23 2012; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card
24 and Debit Card Act; or Section 11-9.1A of the Criminal Code of
25 1961 or the Criminal Code of 2012 or Section 5.1 of the Wrongs
26 to Children Act; or (ii) violated Section 50-50 of the Nurse

1 Practice Act ~~, unless the applicant or employee obtains a~~
2 ~~waiver pursuant to Section 40 of this Act.~~

3 A health care employer is not required to retain an
4 individual in a position with duties involving direct care for
5 clients, patients, or residents, and no long-term care facility
6 is required to retain an individual in a position with duties
7 that involve or may involve contact with residents or access to
8 the living quarters or the financial, medical, or personal
9 records of residents, who has been convicted of committing or
10 attempting to commit one or more of the offenses enumerated in
11 this subsection.

12 (b) A health care employer or long-term care facility may
13 ~~shall not~~ hire, employ, or retain any individual in a position
14 ~~with duties~~ involving direct care of clients, patients, or
15 residents, ~~and no long term care facility shall knowingly hire,~~
16 ~~employ, or retain any individual in a position with duties that~~
17 ~~involve or may involve contact with residents~~ or access to the
18 living quarters or the financial, medical, or personal records
19 of residents, who ~~if the health care employer becomes aware~~
20 ~~that the individual~~ has been convicted in another state of
21 committing or attempting to commit an offense that has the same
22 or similar elements as an offense listed in subsection (a) or
23 (a-1), as verified by court records, records from a state
24 agency, or an FBI criminal history record check, only with a
25 waiver described in ~~unless the applicant or employee obtains a~~
26 ~~waiver pursuant to~~ Section 40 of this Act. This shall not be

1 construed to mean that a health care employer has an obligation
2 to conduct a criminal history records check in other states in
3 which an employee has resided.

4 (Source: P.A. 96-710, eff. 1-1-10; 96-1551, Article 1, Section
5 930, eff. 7-1-11; 96-1551, Article 2, Section 995, eff. 7-1-11;
6 96-1551, Article 10, Section 10-40, eff. 7-1-11; 97-597, eff.
7 1-1-12; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150,
8 eff. 1-25-13.)

9 (225 ILCS 46/33)

10 Sec. 33. Fingerprint-based criminal history records check.

11 (a) A fingerprint-based criminal history records check is
12 not required for health care employees who have been
13 continuously employed by a health care employer since October
14 1, 2007, have met the requirements for criminal history
15 background checks prior to October 1, 2007, and have no
16 disqualifying convictions or requested and received a waiver of
17 those disqualifying convictions. These employees shall be
18 retained on the Health Care Worker Registry as long as they
19 remain active. Nothing in this subsection (a) shall be
20 construed to prohibit a health care employer from initiating a
21 criminal history records check for these employees. Should
22 these employees seek a new position with a different health
23 care employer, then a fingerprint-based criminal history
24 records check shall be required.

25 (b) On October 1, 2007 or as soon thereafter as is

1 reasonably practical, in the discretion of the Director of
2 Public Health, and thereafter, any student, applicant, or
3 employee who desires to be included on the Department of Public
4 Health's Health Care Worker Registry must authorize the
5 Department of Public Health or its designee to request a
6 fingerprint-based criminal history records check to determine
7 if the individual has a conviction for a disqualifying offense.
8 This authorization shall allow the Department of Public Health
9 to request and receive information and assistance from any
10 State or local governmental agency. Each individual shall
11 submit his or her fingerprints to the Department of State
12 Police in an electronic format that complies with the form and
13 manner for requesting and furnishing criminal history record
14 information prescribed by the Department of State Police. The
15 fingerprints submitted under this Section shall be checked
16 against the fingerprint records now and hereafter filed in the
17 Department of State Police criminal history record databases.
18 The Department of State Police shall charge a fee for
19 conducting the criminal history records check, which shall not
20 exceed the actual cost of the records check. The livescan
21 vendor may act as the designee for individuals, educational
22 entities, or health care employers in the collection of
23 Department of State Police fees and deposit those fees into the
24 State Police Services Fund. The Department of State Police
25 shall provide information concerning any criminal convictions,
26 now or hereafter filed, against the individual.

1 (c) On October 1, 2007 or as soon thereafter as is
2 reasonably practical, in the discretion of the Director of
3 Public Health, and thereafter, an educational entity, other
4 than a secondary school, conducting a nurse aide training
5 program must initiate a fingerprint-based criminal history
6 records check requested by the Department of Public Health
7 prior to entry of an individual into the training program.

8 (d) On October 1, 2007 or as soon thereafter as is
9 reasonably practical, in the discretion of the Director of
10 Public Health, and thereafter, a health care employer who makes
11 a conditional offer of employment to an applicant for a
12 position as an employee must initiate a fingerprint-based
13 criminal history record check, requested by the Department of
14 Public Health, on the applicant, if such a background check has
15 not been previously conducted.

16 (e) When initiating a background check requested by the
17 Department of Public Health, an educational entity or health
18 care employer shall electronically submit to the Department of
19 Public Health the student's, applicant's, or employee's social
20 security number, demographics, disclosure, and authorization
21 information in a format prescribed by the Department of Public
22 Health within 2 working days after the authorization is
23 secured. The student, applicant, or employee must have his or
24 her fingerprints collected electronically and transmitted to
25 the Department of State Police within 10 working days. The
26 educational entity or health care employer must transmit all

1 necessary information and fees to the livescan vendor and
2 Department of State Police within 10 working days after receipt
3 of the authorization. This information and the results of the
4 criminal history record checks shall be maintained by the
5 Department of Public Health's Health Care Worker Registry.

6 (f) A direct care employer may initiate a fingerprint-based
7 background check requested by the Department of Public Health
8 for any of its employees, but may not use this process to
9 initiate background checks for residents. The results of any
10 fingerprint-based background check that is initiated with the
11 Department as the requestor shall be entered in the Health Care
12 Worker Registry.

13 (g) As long as the employee has had a fingerprint-based
14 criminal history record check requested by the Department of
15 Public Health and stays active on the Health Care Worker
16 Registry, no further criminal history record checks shall be
17 deemed necessary, as the Department of State Police shall
18 notify the Department of Public Health of any additional
19 convictions associated with the fingerprints previously
20 submitted. Health care employers are required to check the
21 Health Care Worker Registry before hiring an employee to
22 determine that the individual has had a fingerprint-based
23 record check requested by the Department of Public Health and
24 has no disqualifying convictions or has been granted a waiver
25 pursuant to Section 40 of this Act. If the individual has not
26 had such a background check or is not active on the Health Care

1 Worker Registry, then the health care employer must initiate a
2 fingerprint-based record check requested by the Department of
3 Public Health. If an individual is inactive on the Health Care
4 Worker Registry, that individual is prohibited from being hired
5 to work as a certified nurse aide if, since the individual's
6 most recent completion of a competency test, there has been a
7 period of 24 consecutive months during which the individual has
8 not provided nursing or nursing-related services for pay. If
9 the individual can provide proof of having retained his or her
10 certification by not having a 24 consecutive month break in
11 service for pay, he or she may be hired as a certified nurse
12 aide and that employment information shall be entered into the
13 Health Care Worker Registry.

14 (h) On October 1, 2007 or as soon thereafter as is
15 reasonably practical, in the discretion of the Director of
16 Public Health, and thereafter, if the Department of State
17 Police notifies the Department of Public Health that an
18 employee has a new conviction of a disqualifying offense, based
19 upon the fingerprints that were previously submitted, then (i)
20 the Health Care Worker Registry shall notify the employee's
21 last known employer of the offense, (ii) a record of the
22 employee's disqualifying offense shall be entered on the Health
23 Care Worker Registry, and (iii) the individual shall no longer
24 be eligible to work as an employee unless he or she obtains a
25 waiver pursuant to Section 40 of this Act.

26 (i) On October 1, 2007, or as soon thereafter, in the

1 discretion of the Director of Public Health, as is reasonably
2 practical, and thereafter, each direct care employer or its
3 designee must provide an employment verification for each
4 employee no less than annually. The direct care employer or its
5 designee must log into the Health Care Worker Registry through
6 a secure login. The health care employer or its designee must
7 indicate employment and termination dates within 30 days after
8 hiring or terminating an employee, as well as the employment
9 category and type. Failure to comply with this subsection (i)
10 constitutes a licensing violation. For health care employers
11 that are not licensed or certified, a fine of up to \$500 may be
12 imposed for failure to maintain these records. This information
13 shall be used by the Department of Public Health to notify the
14 last known employer of any disqualifying offenses that are
15 reported by the Department of State Police.

16 (j) The Department of Public Health shall notify each
17 health care employer or long-term care facility inquiring as to
18 the information on the Health Care Worker Registry if the
19 applicant or employee listed on the registry has a
20 disqualifying offense and is therefore ineligible to work. If
21 an applicant or employee has a waiver under Section 40 of this
22 Act for one or more disqualifying offenses under Section 25 of
23 this Act and he or she is otherwise eligible to work, the
24 Department of Public Health shall report that the applicant or
25 employee is eligible to work and may report that the applicant
26 or employee has received a waiver ~~or has a waiver pursuant to~~

1 ~~Section 40 of this Act.~~

2 (k) The student, applicant, or employee must be notified of
3 each of the following whenever a fingerprint-based criminal
4 history records check is required:

5 (1) That the educational entity, health care employer,
6 or long-term care facility shall initiate a
7 fingerprint-based criminal history record check requested
8 by the Department of Public Health of the student,
9 applicant, or employee pursuant to this Act.

10 (2) That the student, applicant, or employee has a
11 right to obtain a copy of the criminal records report that
12 indicates a conviction for a disqualifying offense and
13 challenge the accuracy and completeness of the report
14 through an established Department of State Police
15 procedure of Access and Review.

16 (3) That the applicant, if hired conditionally, may be
17 terminated if the criminal records report indicates that
18 the applicant has a record of a conviction of any of the
19 criminal offenses enumerated in Section 25, unless the
20 applicant obtains a waiver pursuant to Section 40 of this
21 Act.

22 (4) That the applicant, if not hired conditionally,
23 shall not be hired if the criminal records report indicates
24 that the applicant has a record of a conviction of any of
25 the criminal offenses enumerated in Section 25, unless the
26 applicant obtains a waiver pursuant to Section 40 of this

1 Act.

2 (5) That the employee shall be terminated if the
3 criminal records report indicates that the employee has a
4 record of a conviction of any of the criminal offenses
5 enumerated in Section 25.

6 (6) If, after the employee has originally been
7 determined not to have disqualifying offenses, the
8 employer is notified that the employee has a new
9 conviction(s) of any of the criminal offenses enumerated in
10 Section 25, then the employee shall be terminated.

11 (1) A health care employer or long-term care facility may
12 conditionally employ an applicant for up to 3 months pending
13 the results of a fingerprint-based criminal history record
14 check requested by the Department of Public Health.

15 (m) The Department of Public Health or an entity
16 responsible for inspecting, licensing, certifying, or
17 registering the health care employer or long-term care facility
18 shall be immune from liability for notices given based on the
19 results of a fingerprint-based criminal history record check.

20 (Source: P.A. 95-120, eff. 8-13-07.)

21 (225 ILCS 46/40)

22 Sec. 40. Waiver.

23 (a) Any student, applicant, or employee listed on the
24 Health Care Worker Registry may request a waiver of the
25 prohibition against employment by:

1 (1) completing a waiver application on a form
2 prescribed by the Department of Public Health;

3 (2) providing a written explanation of each conviction
4 to include (i) what happened, (ii) how many years have
5 passed since the offense, (iii) the individuals involved,
6 (iv) the age of the applicant at the time of the offense,
7 and (v) any other circumstances surrounding the offense;
8 and

9 (3) providing official documentation showing that all
10 fines have been paid, if applicable and except for in the
11 instance of payment of court-imposed fines or restitution
12 in which the applicant is adhering to a payment schedule,
13 and the date probation or parole was satisfactorily
14 completed, if applicable.

15 (b) The applicant may, but is not required to, submit
16 employment and character references and any other evidence
17 demonstrating the ability of the applicant or employee to
18 perform the employment responsibilities competently and
19 evidence that the applicant or employee does not pose a threat
20 to the health or safety of residents, patients, or clients.

21 (c) The Department of Public Health shall ~~must inform~~
22 ~~health care employers if a waiver is being sought by entering a~~
23 ~~record on the Health Care Worker Registry that a waiver is~~
24 ~~pending and must~~ act upon the waiver request within 30 days of
25 receipt of all necessary information, as defined by rule. The
26 Department shall send an applicant written notification of its

1 decision whether to grant a waiver, except ~~Except~~ in cases
2 where a rehabilitation waiver is granted, ~~a letter shall be~~
3 ~~sent to the applicant notifying the applicant that he or she~~
4 ~~has received an automatic waiver.~~

5 (d) An individual shall not be employed from the time that
6 the employer receives a notification from the Department of
7 Public Health based upon the results of a fingerprint-based
8 criminal history records check containing disqualifying
9 conditions until the time that the individual receives a
10 waiver.

11 (e) The entity responsible for inspecting, licensing,
12 certifying, or registering the health care employer and the
13 Department of Public Health shall be immune from liability for
14 any waivers granted under this Section.

15 (f) A health care employer is not obligated to employ or
16 offer permanent employment to an applicant, or to retain an
17 employee who is granted a waiver under this Section.

18 (Source: P.A. 95-120, eff. 8-13-07; 95-545, eff. 8-28-07;
19 95-876, eff. 8-21-08; 96-565, eff. 8-18-09.)

20 (225 ILCS 46/40.1 new)

21 Sec. 40.1. Health Care Registry Working Group.

22 (a) The Department of Public Health in cooperation with the
23 Office of the Governor shall establish a working group
24 regarding the activities under this Act, with the following
25 goals:

1 (1) evaluate and monitor the success of health care waivers
2 under Section 40 of this Act in creating job opportunity for
3 people with criminal records; and

4 (2) identify and recommend changes to the waiver
5 application and implementation process to reduce barriers for
6 applicants or employees.

7 (b) The working group shall be comprised of representatives
8 from advocacy and community-based organizations, individuals
9 directly impacted by the waiver process, industry
10 representatives, members of the General Assembly, and
11 representatives from the Department of Public Health and the
12 Office of the Governor. The working group shall meet at least 2
13 times each year. In order to facilitate the goals of the
14 working group, the Department of Public Health shall identify
15 ways to analyze information regarding employment of people with
16 waivers and report this information to the working group.

17 Section 120. The Pharmacy Practice Act is amended by
18 changing Sections 6, 9, and 9.5 as follows:

19 (225 ILCS 85/6) (from Ch. 111, par. 4126)

20 (Section scheduled to be repealed on January 1, 2018)

21 Sec. 6. Each individual seeking licensure as a registered
22 pharmacist shall make application to the Department and shall
23 provide evidence of the following:

24 1. that he or she is a United States citizen or legally

1 admitted alien;

2 2. that he or she has not engaged in conduct or behavior
3 determined to be grounds for discipline under this Act;

4 3. that he or she is a graduate of a first professional
5 degree program in pharmacy of a university recognized and
6 approved by the Department;

7 4. that he or she has successfully completed a program of
8 practice experience under the direct supervision of a
9 pharmacist in a pharmacy in this State, or in any other State;
10 ~~and~~

11 5. that he or she has passed an examination recommended by
12 the Board of Pharmacy and authorized by the Department; and -

13 6. that he or she has submitted his or her fingerprints to
14 the Department of State Police in the form and manner
15 prescribed by the Department of State Police; these
16 fingerprints shall be transmitted through a live scan
17 fingerprint vendor licensed by the Department and shall be
18 checked against the fingerprint records now and hereafter filed
19 in the Department of State Police and Federal Bureau of
20 Investigation criminal history records databases; the
21 Department of State Police shall charge a fee for conducting
22 the criminal history records check, which shall be deposited
23 into the State Police Services Fund and shall not exceed the
24 actual cost of the State and national criminal history records
25 check; the Department of State Police shall furnish, pursuant
26 to positive identification, all Illinois conviction

1 information and national criminal history records information
2 to the Department; the Department may adopt any rules necessary
3 to implement this subsection 6.

4 The Department shall issue a license as a registered
5 pharmacist to any applicant who has qualified as aforesaid and
6 who has filed the required applications and paid the required
7 fees in connection therewith; and such registrant shall have
8 the authority to practice the profession of pharmacy in this
9 State.

10 (Source: P.A. 95-689, eff. 10-29-07.)

11 (225 ILCS 85/9) (from Ch. 111, par. 4129)

12 (Section scheduled to be repealed on January 1, 2018)

13 Sec. 9. Registration as pharmacy technician. Any person
14 shall be entitled to registration as a registered pharmacy
15 technician who is of the age of 16 or over, has not engaged in
16 conduct or behavior determined to be grounds for discipline
17 under this Act, is attending or has graduated from an
18 accredited high school or comparable school or educational
19 institution or received a high school equivalency certificate,
20 ~~and~~ has filed a written application for registration on a form
21 to be prescribed and furnished by the Department for that
22 purpose, and has submitted his or her fingerprints to the
23 Department of State Police in the form and manner prescribed by
24 the Department of State Police. These fingerprints shall be
25 transmitted through a live scan fingerprint vendor licensed by

1 the Department and shall be checked against the fingerprint
2 records now and hereafter filed in the Department of State
3 Police and Federal Bureau of Investigation criminal history
4 records databases. The Department of State Police shall charge
5 a fee for conducting the criminal history records check, which
6 shall be deposited into the State Police Services Fund and
7 shall not exceed the actual cost of the State and national
8 criminal history records check. The Department of State Police
9 shall furnish, pursuant to positive identification, all
10 Illinois conviction information and national criminal history
11 records information to the Department. The Department may adopt
12 any rules necessary to implement the background checks required
13 under this Section. The Department shall issue a certificate of
14 registration as a registered pharmacy technician to any
15 applicant who has qualified as aforesaid, and such registration
16 shall be the sole authority required to assist licensed
17 pharmacists in the practice of pharmacy, under the supervision
18 of a licensed pharmacist. A registered pharmacy technician may,
19 under the supervision of a pharmacist, assist in the practice
20 of pharmacy and perform such functions as assisting in the
21 dispensing process, offering counseling, receiving new verbal
22 prescription orders, and having prescriber contact concerning
23 prescription drug order clarification. A registered pharmacy
24 technician may not engage in patient counseling, drug regimen
25 review, or clinical conflict resolution.

26 Beginning on January 1, 2010, within 2 years after initial

1 registration as a registered technician, a pharmacy technician
2 must become certified by successfully passing the Pharmacy
3 Technician Certification Board (PTCB) examination or another
4 Board-approved pharmacy technician examination and register as
5 a certified pharmacy technician with the Department in order to
6 continue to perform pharmacy technician's duties. This
7 requirement does not apply to pharmacy technicians registered
8 prior to January 1, 2008.

9 Any person registered as a pharmacy technician who is also
10 enrolled in a first professional degree program in pharmacy in
11 a school or college of pharmacy or a department of pharmacy of
12 a university approved by the Department or has graduated from
13 such a program within the last 18 months, shall be considered a
14 "student pharmacist" and entitled to use the title "student
15 pharmacist". A student pharmacist must meet all of the
16 requirements for registration as a pharmacy technician set
17 forth in this Section excluding the requirement of
18 certification prior to the second registration renewal and pay
19 the required pharmacy technician registration fees. A student
20 pharmacist may, under the supervision of a pharmacist, assist
21 in the practice of pharmacy and perform any and all functions
22 delegated to him or her by the pharmacist.

23 Any person seeking licensure as a pharmacist who has
24 graduated from a pharmacy program outside the United States
25 must register as a pharmacy technician and shall be considered
26 a "student pharmacist" and be entitled to use the title

1 "student pharmacist" while completing the 1,200 clinical hours
2 of training approved by the Board of Pharmacy described and for
3 no more than 18 months after completion of these hours. These
4 individuals are not required to become certified pharmacy
5 technicians while completing their Board approved clinical
6 training, but must become licensed as a pharmacist or become a
7 certified pharmacy technician before the second pharmacy
8 technician registration renewal following completion of the
9 Board approved clinical training.

10 The Department shall not renew the pharmacy technician
11 license of any person who has been registered as a "student
12 pharmacist" and has dropped out of or been expelled from an
13 ACPE accredited college of pharmacy, who has failed to complete
14 his or her 1,200 hours of Board approved clinical training
15 within 24 months or who has failed the pharmacist licensure
16 examination 3 times and shall require these individuals to meet
17 the requirements of and become registered a certified pharmacy
18 technician.

19 The Department may take any action set forth in Section 30
20 of this Act with regard to registrations pursuant to this
21 Section.

22 Any person who is enrolled in a non-traditional Pharm.D.
23 program at an ACPE accredited college of pharmacy and is a
24 licensed pharmacist under the laws of another United States
25 jurisdiction shall be permitted to engage in the program of
26 practice experience required in the academic program by virtue

1 of such license. Such person shall be exempt from the
2 requirement of registration as a registered pharmacy
3 technician while engaged in the program of practice experience
4 required in the academic program.

5 An applicant for registration as a pharmacy technician may
6 assist a pharmacist in the practice of pharmacy for a period of
7 up to 60 days prior to the issuance of a certificate of
8 registration if the applicant has submitted the required fee
9 and an application for registration to the Department. The
10 applicant shall keep a copy of the submitted application on the
11 premises where the applicant is assisting in the practice of
12 pharmacy. The Department shall forward confirmation of receipt
13 of the application with start and expiration dates of practice
14 pending registration.

15 (Source: P.A. 98-718, eff. 1-1-15.)

16 (225 ILCS 85/9.5)

17 (Section scheduled to be repealed on January 1, 2018)

18 Sec. 9.5. Certified pharmacy technician.

19 (a) An individual registered as a pharmacy technician under
20 this Act may be registered as a certified pharmacy technician,
21 if he or she meets all of the following requirements:

22 (1) He or she has submitted a written application in
23 the form and manner prescribed by the Department.

24 (2) He or she has attained the age of 18.

25 (3) He or she is of good moral character, as determined

1 by the Department.

2 (4) He or she has (i) graduated from pharmacy
3 technician training meeting the requirements set forth in
4 subsection (a) of Section 17.1 of this Act or (ii) obtained
5 documentation from the pharmacist-in-charge of the
6 pharmacy where the applicant is employed verifying that he
7 or she has successfully completed a training program and
8 has successfully completed an objective assessment
9 mechanism prepared in accordance with rules established by
10 the Department.

11 (5) He or she has successfully passed an examination
12 accredited by the National Organization of Certifying
13 Agencies, as approved and required by the Board.

14 (6) He or she has paid the required certification fees.

15 (7) He or she has submitted his or her fingerprints to
16 the Department of State Police in the form and manner
17 prescribed by the Department of State Police. These
18 fingerprints shall be transmitted through a live scan
19 fingerprint vendor licensed by the Department and shall be
20 checked against the fingerprint records now and hereafter
21 filed in the Department of State Police and Federal Bureau
22 of Investigation criminal history records databases. The
23 Department of State Police shall charge a fee for
24 conducting the criminal history records check, which shall
25 be deposited into the State Police Services Fund and shall
26 not exceed the actual cost of the State and national

1 criminal history records check. The Department of State
2 Police shall furnish, pursuant to positive identification,
3 all Illinois conviction information and national criminal
4 history records information to the Department. The
5 Department may adopt any rules necessary to implement this
6 paragraph (7).

7 (b) No pharmacist whose license has been denied, revoked,
8 suspended, or restricted for disciplinary purposes may be
9 eligible to be registered as a certified pharmacy technician.

10 (c) The Department may, by rule, establish any additional
11 requirements for certification under this Section.

12 (d) A person who is not a registered pharmacy technician
13 and meets the requirements of this Section may register as a
14 certified pharmacy technician without first registering as a
15 pharmacy technician.

16 (Source: P.A. 95-689, eff. 10-29-07; 96-673, eff. 1-1-10.)

17 Section 125. The Criminal Code of 2012 is amended by
18 changing Section 33G-9 as follows:

19 (720 ILCS 5/33G-9)

20 (Section scheduled to be repealed on June 11, 2017)

21 Sec. 33G-9. Repeal. This Article is repealed on June 11,
22 2019 5 years after it becomes law.

23 (Source: P.A. 97-686, eff. 6-11-12.)

1 Section 130. The Cannabis Control Act is amended by
2 changing Section 5.2 as follows:

3 (720 ILCS 550/5.2) (from Ch. 56 1/2, par. 705.2)

4 Sec. 5.2. Delivery of cannabis on school grounds.

5 (a) Any person who violates subsection (e) of Section 5 in
6 any school, on the real property comprising any school, or any
7 conveyance owned, leased or contracted by a school to transport
8 students to or from school or a school related activity, or on
9 any public way within 1,000 feet of the real property
10 comprising any school, or any conveyance owned, leased or
11 contracted by a school to transport students to or from school
12 or a school related activity, and at the time of the violation
13 persons under the age 18 are present, other than the person who
14 committed the offense, the offense is committed during school
15 hours, or the offense is committed at times when persons under
16 the age of 18 are reasonably expected to be present in the
17 school, in the conveyance, on the real property, or on the
18 public way, such as when after-school activities are occurring,
19 is guilty of a Class 1 felony, the fine for which shall not
20 exceed \$200,000;

21 (b) Any person who violates subsection (d) of Section 5 in
22 any school, on the real property comprising any school, or any
23 conveyance owned, leased or contracted by a school to transport
24 students to or from school or a school related activity, or on
25 any public way within 1,000 feet of the real property

1 comprising any school, or any conveyance owned, leased or
2 contracted by a school to transport students to or from school
3 or a school related activity, and at the time of the violation
4 persons under the age 18 are present, other than the person who
5 committed the offense, the offense is committed during school
6 hours, or the offense is committed at times when persons under
7 the age of 18 are reasonably expected to be present in the
8 school, in the conveyance, on the real property, or on the
9 public way, such as when after-school activities are occurring,
10 is guilty of a Class 2 felony, the fine for which shall not
11 exceed \$100,000;

12 (c) Any person who violates subsection (c) of Section 5 in
13 any school, on the real property comprising any school, or any
14 conveyance owned, leased or contracted by a school to transport
15 students to or from school or a school related activity, or on
16 any public way within 1,000 feet of the real property
17 comprising any school, or any conveyance owned, leased or
18 contracted by a school to transport students to or from school
19 or a school related activity, and at the time of the violation
20 persons under the age 18 are present, other than the person who
21 committed the offense, the offense is committed during school
22 hours, or the offense is committed at times when persons under
23 the age of 18 are reasonably expected to be present in the
24 school, in the conveyance, on the real property, or on the
25 public way, such as when after-school activities are occurring,
26 is guilty of a Class 3 felony, the fine for which shall not

1 exceed \$50,000;

2 (d) Any person who violates subsection (b) of Section 5 in
3 any school, on the real property comprising any school, or any
4 conveyance owned, leased or contracted by a school to transport
5 students to or from school or a school related activity, or on
6 any public way within 1,000 feet of the real property
7 comprising any school, or any conveyance owned, leased or
8 contracted by a school to transport students to or from school
9 or a school related activity, and at the time of the violation
10 persons under the age 18 are present, other than the person who
11 committed the offense, the offense is committed during school
12 hours, or the offense is committed at times when persons under
13 the age of 18 are reasonably expected to be present in the
14 school, in the conveyance, on the real property, or on the
15 public way, such as when after-school activities are occurring,
16 is guilty of a Class 4 felony, the fine for which shall not
17 exceed \$25,000;

18 (e) Any person who violates subsection (a) of Section 5 in
19 any school, on the real property comprising any school, or any
20 conveyance owned, leased or contracted by a school to transport
21 students to or from school or a school related activity, on any
22 public way within 1,000 feet of the real property comprising
23 any school, or any conveyance owned, leased or contracted by a
24 school to transport students to or from school or a school
25 related activity, and at the time of the violation persons
26 under the age 18 are present, other than the person who

1 committed the offense, the offense is committed during school
2 hours, or the offense is committed at times when persons under
3 the age of 18 are reasonably expected to be present in the
4 school, in the conveyance, on the real property, or on the
5 public way, such as when after-school activities are occurring,
6 is guilty of a Class A misdemeanor.

7 (Source: P.A. 87-544.)

8 Section 135. The Illinois Controlled Substances Act is
9 amended by changing Section 407 as follows:

10 (720 ILCS 570/407) (from Ch. 56 1/2, par. 1407)

11 Sec. 407. (a) (1) (A) Any person 18 years of age or over who
12 violates any subsection of Section 401 or subsection (b) of
13 Section 404 by delivering a controlled, counterfeit or
14 look-alike substance to a person under 18 years of age may be
15 sentenced to imprisonment for a term up to twice the maximum
16 term and fined an amount up to twice that amount otherwise
17 authorized by the pertinent subsection of Section 401 and
18 Subsection (b) of Section 404.

19 (B) (Blank).

20 (2) Except as provided in paragraph (3) of this subsection,
21 any person who violates:

22 (A) subsection (c) of Section 401 by delivering or
23 possessing with intent to deliver a controlled,
24 counterfeit, or look-alike substance in or on, or within

1 1,000 feet of, a truck stop or safety rest area, is guilty
2 of a Class 1 felony, the fine for which shall not exceed
3 \$250,000;

4 (B) subsection (d) of Section 401 by delivering or
5 possessing with intent to deliver a controlled,
6 counterfeit, or look-alike substance in or on, or within
7 1,000 feet of, a truck stop or safety rest area, is guilty
8 of a Class 2 felony, the fine for which shall not exceed
9 \$200,000;

10 (C) subsection (e) of Section 401 or subsection (b) of
11 Section 404 by delivering or possessing with intent to
12 deliver a controlled, counterfeit, or look-alike substance
13 in or on, or within 1,000 feet of, a truck stop or safety
14 rest area, is guilty of a Class 3 felony, the fine for
15 which shall not exceed \$150,000;

16 (D) subsection (f) of Section 401 by delivering or
17 possessing with intent to deliver a controlled,
18 counterfeit, or look-alike substance in or on, or within
19 1,000 feet of, a truck stop or safety rest area, is guilty
20 of a Class 3 felony, the fine for which shall not exceed
21 \$125,000;

22 (E) subsection (g) of Section 401 by delivering or
23 possessing with intent to deliver a controlled,
24 counterfeit, or look-alike substance in or on, or within
25 1,000 feet of, a truck stop or safety rest area, is guilty
26 of a Class 3 felony, the fine for which shall not exceed

1 \$100,000;

2 (F) subsection (h) of Section 401 by delivering or
3 possessing with intent to deliver a controlled,
4 counterfeit, or look-alike substance in or on, or within
5 1,000 feet of, a truck stop or safety rest area, is guilty
6 of a Class 3 felony, the fine for which shall not exceed
7 \$75,000;

8 (3) Any person who violates paragraph (2) of this
9 subsection (a) by delivering or possessing with intent to
10 deliver a controlled, counterfeit, or look-alike substance in
11 or on, or within 1,000 feet of a truck stop or a safety rest
12 area, following a prior conviction or convictions of paragraph
13 (2) of this subsection (a) may be sentenced to a term of
14 imprisonment up to 2 times the maximum term and fined an amount
15 up to 2 times the amount otherwise authorized by Section 401.

16 (4) For the purposes of this subsection (a):

17 (A) "Safety rest area" means a roadside facility
18 removed from the roadway with parking and facilities
19 designed for motorists' rest, comfort, and information
20 needs; and

21 (B) "Truck stop" means any facility (and its parking
22 areas) used to provide fuel or service, or both, to any
23 commercial motor vehicle as defined in Section 18b-101 of
24 the Illinois Vehicle Code.

25 (b) Any person who violates:

26 (1) subsection (c) of Section 401 is guilty of a Class

1 X felony the fine for which shall not exceed \$500,000 if he
2 or she commits the violation:

3 (A) in any school, or any conveyance owned, leased
4 or contracted by a school to transport students to or
5 from school or a school related activity, or on the
6 real property comprising any school, or within 1,000
7 feet of the real property comprising any school, and at
8 the time of the violation persons under the age 18 are
9 present, other than the person who committed the
10 offense, the offense is committed during school hours,
11 or the offense is committed at times when persons under
12 the age of 18 are reasonably expected to be present in
13 the school, in the conveyance, or on the real property,
14 such as when after-school activities are occurring,

15 (B) on residential property owned, operated or
16 managed by a public housing agency or leased by a
17 public housing agency as part of a scattered site or
18 mixed-income development, or public park, on the real
19 property comprising any ~~school or~~ residential property
20 owned, operated or managed by a public housing agency
21 or leased by a public housing agency as part of a
22 scattered site or mixed-income development, or public
23 park or within 1,000 feet of the real property
24 comprising any ~~school or~~ residential property owned,
25 operated or managed by a public housing agency or
26 leased by a public housing agency as part of a

1 scattered site or mixed-income development, or public
2 park,

3 (C) on the real property comprising any church,
4 synagogue, or other building, structure, or place used
5 primarily for religious worship, or within 1,000 feet
6 of the real property comprising any church, synagogue,
7 or other building, structure, or place used primarily
8 for religious worship, or

9 (D) on the real property comprising any of the
10 following places, buildings, or structures used
11 primarily for housing or providing space for
12 activities for senior citizens: nursing homes,
13 assisted-living centers, senior citizen housing
14 complexes, or senior centers oriented toward daytime
15 activities, or within 1,000 feet of the real property
16 comprising any of the following places, buildings, or
17 structures used primarily for housing or providing
18 space for activities for senior citizens: nursing
19 homes, assisted-living centers, senior citizen housing
20 complexes, or senior centers oriented toward daytime
21 activities ~~is guilty of a Class X felony, the fine for~~
22 ~~which shall not exceed \$500,000;~~

23 (2) subsection (d) of Section 401 is guilty of a Class
24 1 felony the fine for which shall not exceed \$250,000 if he
25 or she commits the violation:

26 (A) in any school, or any conveyance owned, leased

1 or contracted by a school to transport students to or
2 from school or a school related activity, or on the
3 real property comprising any school, or within 1,000
4 feet of the real property comprising any school, and at
5 the time of the violation persons under the age 18 are
6 present, other than the person who committed the
7 offense, the offense is committed during school hours,
8 or the offense is committed at times when persons under
9 the age of 18 are reasonably expected to be present in
10 the school, in the conveyance, or on the real property,
11 such as when after-school activities are occurring,

12 (B) on residential property owned, operated or
13 managed by a public housing agency or leased by a
14 public housing agency as part of a scattered site or
15 mixed-income development, or public park, on the real
16 property comprising any ~~school or~~ residential property
17 owned, operated or managed by a public housing agency
18 or leased by a public housing agency as part of a
19 scattered site or mixed-income development, or public
20 park or within 1,000 feet of the real property
21 comprising any ~~school or~~ residential property owned,
22 operated or managed by a public housing agency or
23 leased by a public housing agency as part of a
24 scattered site or mixed-income development, or public
25 park,

26 (C) on the real property comprising any church,

1 synagogue, or other building, structure, or place used
2 primarily for religious worship, or within 1,000 feet
3 of the real property comprising any church, synagogue,
4 or other building, structure, or place used primarily
5 for religious worship, or

6 (D) on the real property comprising any of the
7 following places, buildings, or structures used
8 primarily for housing or providing space for
9 activities for senior citizens: nursing homes,
10 assisted-living centers, senior citizen housing
11 complexes, or senior centers oriented toward daytime
12 activities, or within 1,000 feet of the real property
13 comprising any of the following places, buildings, or
14 structures used primarily for housing or providing
15 space for activities for senior citizens: nursing
16 homes, assisted-living centers, senior citizen housing
17 complexes, or senior centers oriented toward daytime
18 activities ~~is guilty of a Class 1 felony, the fine for~~
19 ~~which shall not exceed \$250,000;~~

20 (3) subsection (e) of Section 401 or Subsection (b) of
21 Section 404 is guilty of a Class 2 felony the fine for
22 which shall not exceed \$200,000 if he or she commits the
23 violation:

24 (A) in any school, or any conveyance owned, leased
25 or contracted by a school to transport students to or
26 from school or a school related activity, or on the

1 real property comprising any school, or within 1,000
2 feet of the real property comprising any school, and at
3 the time of the violation persons under the age 18 are
4 present, other than the person who committed the
5 offense, the offense is committed during school hours,
6 or the offense is committed at times when persons under
7 the age of 18 are reasonably expected to be present in
8 the school, in the conveyance, or on the real property,
9 such as when after-school activities are occurring,

10 (B) on residential property owned, operated or
11 managed by a public housing agency or leased by a
12 public housing agency as part of a scattered site or
13 mixed-income development, or public park, on the real
14 property comprising any ~~school or~~ residential property
15 owned, operated or managed by a public housing agency
16 or leased by a public housing agency as part of a
17 scattered site or mixed-income development, or public
18 park or within 1,000 feet of the real property
19 comprising any ~~school or~~ residential property owned,
20 operated or managed by a public housing agency or
21 leased by a public housing agency as part of a
22 scattered site or mixed-income development, or public
23 park,

24 (C) on the real property comprising any church,
25 synagogue, or other building, structure, or place used
26 primarily for religious worship, or within 1,000 feet

1 of the real property comprising any church, synagogue,
2 or other building, structure, or place used primarily
3 for religious worship, or

4 (D) on the real property comprising any of the
5 following places, buildings, or structures used
6 primarily for housing or providing space for
7 activities for senior citizens: nursing homes,
8 assisted-living centers, senior citizen housing
9 complexes, or senior centers oriented toward daytime
10 activities, or within 1,000 feet of the real property
11 comprising any of the following places, buildings, or
12 structures used primarily for housing or providing
13 space for activities for senior citizens: nursing
14 homes, assisted-living centers, senior citizen housing
15 complexes, or senior centers oriented toward daytime
16 activities ~~is guilty of a Class 2 felony, the fine for~~
17 ~~which shall not exceed \$200,000;~~

18 (4) subsection (f) of Section 401 is guilty of a Class
19 2 felony the fine for which shall not exceed \$150,000 if he
20 or she commits the violation:

21 (A) in any school, or any conveyance owned, leased
22 or contracted by a school to transport students to or
23 from school or a school related activity, or on the
24 real property comprising any school, or within 1,000
25 feet of the real property comprising any school, and at
26 the time of the violation persons under the age 18 are

1 present, other than the person who committed the
2 offense, the offense is committed during school hours,
3 or the offense is committed at times when persons under
4 the age of 18 are reasonably expected to be present in
5 the school, in the conveyance, or on the real property,
6 such as when after-school activities are occurring,

7 (B) on residential property owned, operated or
8 managed by a public housing agency or leased by a
9 public housing agency as part of a scattered site or
10 mixed-income development, or public park, on the real
11 property comprising any ~~school or~~ residential property
12 owned, operated or managed by a public housing agency
13 or leased by a public housing agency as part of a
14 scattered site or mixed-income development, or public
15 park or within 1,000 feet of the real property
16 comprising any ~~school or~~ residential property owned,
17 operated or managed by a public housing agency or
18 leased by a public housing agency as part of a
19 scattered site or mixed-income development, or public
20 park,

21 (C) on the real property comprising any church,
22 synagogue, or other building, structure, or place used
23 primarily for religious worship, or within 1,000 feet
24 of the real property comprising any church, synagogue,
25 or other building, structure, or place used primarily
26 for religious worship, or

1 (D) on the real property comprising any of the
2 following places, buildings, or structures used
3 primarily for housing or providing space for
4 activities for senior citizens: nursing homes,
5 assisted-living centers, senior citizen housing
6 complexes, or senior centers oriented toward daytime
7 activities, or within 1,000 feet of the real property
8 comprising any of the following places, buildings, or
9 structures used primarily for housing or providing
10 space for activities for senior citizens: nursing
11 homes, assisted-living centers, senior citizen housing
12 complexes, or senior centers oriented toward daytime
13 activities ~~is guilty of a Class 2 felony, the fine for~~
14 ~~which shall not exceed \$150,000;~~

15 (5) subsection (g) of Section 401 is guilty of a Class
16 2 felony the fine for which shall not exceed \$125,000 if he
17 or she commits the violation:

18 (A) in any school, or any conveyance owned, leased
19 or contracted by a school to transport students to or
20 from school or a school related activity, or on the
21 real property comprising any school, or within 1,000
22 feet of the real property comprising any school, and at
23 the time of the violation persons under the age 18 are
24 present, other than the person who committed the
25 offense, the offense is committed during school hours,
26 or the offense is committed at times when persons under

1 the age of 18 are reasonably expected to be present in
2 the school, in the conveyance, or on the real property,
3 such as when after-school activities are occurring,

4 (B) on residential property owned, operated or
5 managed by a public housing agency or leased by a
6 public housing agency as part of a scattered site or
7 mixed-income development, or public park, on the real
8 property comprising any ~~school or~~ residential property
9 owned, operated or managed by a public housing agency
10 or leased by a public housing agency as part of a
11 scattered site or mixed-income development, or public
12 park or within 1,000 feet of the real property
13 comprising any ~~school or~~ residential property owned,
14 operated or managed by a public housing agency or
15 leased by a public housing agency as part of a
16 scattered site or mixed-income development, or public
17 park,

18 (C) on the real property comprising any church,
19 synagogue, or other building, structure, or place used
20 primarily for religious worship, or within 1,000 feet
21 of the real property comprising any church, synagogue,
22 or other building, structure, or place used primarily
23 for religious worship, or

24 (D) on the real property comprising any of the
25 following places, buildings, or structures used
26 primarily for housing or providing space for

1 activities for senior citizens: nursing homes,
2 assisted-living centers, senior citizen housing
3 complexes, or senior centers oriented toward daytime
4 activities, or within 1,000 feet of the real property
5 comprising any of the following places, buildings, or
6 structures used primarily for housing or providing
7 space for activities for senior citizens: nursing
8 homes, assisted-living centers, senior citizen housing
9 complexes, or senior centers oriented toward daytime
10 activities ~~is guilty of a Class 2 felony, the fine for~~
11 ~~which shall not exceed \$125,000; or~~

12 (6) subsection (h) of Section 401 is guilty of a Class
13 2 felony the fine for which shall not exceed \$100,000 if he
14 or she commits the violation:

15 (A) in any school, or any conveyance owned, leased
16 or contracted by a school to transport students to or
17 from school or a school related activity, or on the
18 real property comprising any school, or within 1,000
19 feet of the real property comprising any school, and at
20 the time of the violation persons under the age 18 are
21 present, other than the person who committed the
22 offense, the offense is committed during school hours,
23 or the offense is committed at times when persons under
24 the age of 18 are reasonably expected to be present in
25 the school, in the conveyance, or on the real property,
26 such as when after-school activities are occurring,

1 (B) on residential property owned, operated or
2 managed by a public housing agency or leased by a
3 public housing agency as part of a scattered site or
4 mixed-income development, or public park, on the real
5 property comprising any ~~school or~~ residential property
6 owned, operated or managed by a public housing agency
7 or leased by a public housing agency as part of a
8 scattered site or mixed-income development, or public
9 park or within 1,000 feet of the real property
10 comprising any ~~school or~~ residential property owned,
11 operated or managed by a public housing agency or
12 leased by a public housing agency as part of a
13 scattered site or mixed-income development, or public
14 park,

15 (C) on the real property comprising any church,
16 synagogue, or other building, structure, or place used
17 primarily for religious worship, or within 1,000 feet
18 of the real property comprising any church, synagogue,
19 or other building, structure, or place used primarily
20 for religious worship, or

21 (D) on the real property comprising any of the
22 following places, buildings, or structures used
23 primarily for housing or providing space for
24 activities for senior citizens: nursing homes,
25 assisted-living centers, senior citizen housing
26 complexes, or senior centers oriented toward daytime

1 activities, or within 1,000 feet of the real property
2 comprising any of the following places, buildings, or
3 structures used primarily for housing or providing
4 space for activities for senior citizens: nursing
5 homes, assisted-living centers, senior citizen housing
6 complexes, or senior centers oriented toward daytime
7 activities ~~is guilty of a Class 2 felony, the fine for~~
8 ~~which shall not exceed \$100,000.~~

9 (c) (Blank). ~~Regarding penalties prescribed in subsection~~
10 ~~(b) for violations committed in a school or on or within 1,000~~
11 ~~feet of school property, the time of day, time of year and~~
12 ~~whether classes were currently in session at the time of the~~
13 ~~offense is irrelevant.~~

14 (Source: P.A. 93-223, eff. 1-1-04; 94-556, eff. 9-11-05.)

15 Section 140. The Methamphetamine Control and Community
16 Protection Act is amended by changing Section 55 as follows:

17 (720 ILCS 646/55)

18 Sec. 55. Methamphetamine delivery.

19 (a) Delivery or possession with intent to deliver
20 methamphetamine or a substance containing methamphetamine.

21 (1) It is unlawful knowingly to engage in the delivery
22 or possession with intent to deliver methamphetamine or a
23 substance containing methamphetamine.

24 (2) A person who violates paragraph (1) of this

1 subsection (a) is subject to the following penalties:

2 (A) A person who delivers or possesses with intent
3 to deliver less than 5 grams of methamphetamine or a
4 substance containing methamphetamine is guilty of a
5 Class 2 felony.

6 (B) A person who delivers or possesses with intent
7 to deliver 5 or more grams but less than 15 grams of
8 methamphetamine or a substance containing
9 methamphetamine is guilty of a Class 1 felony.

10 (C) A person who delivers or possesses with intent
11 to deliver 15 or more grams but less than 100 grams of
12 methamphetamine or a substance containing
13 methamphetamine is guilty of a Class X felony, subject
14 to a term of imprisonment of not less than 6 years and
15 not more than 30 years, and subject to a fine not to
16 exceed \$100,000 or the street value of the
17 methamphetamine, whichever is greater.

18 (D) A person who delivers or possesses with intent
19 to deliver 100 or more grams but less than 400 grams of
20 methamphetamine or a substance containing
21 methamphetamine is guilty of a Class X felony, subject
22 to a term of imprisonment of not less than 9 years and
23 not more than 40 years, and subject to a fine not to
24 exceed \$200,000 or the street value of the
25 methamphetamine, whichever is greater.

26 (E) A person who delivers or possesses with intent

1 to deliver 400 or more grams but less than 900 grams of
2 methamphetamine or a substance containing
3 methamphetamine is guilty of a Class X felony, subject
4 to a term of imprisonment of not less than 12 years and
5 not more than 50 years, and subject to a fine not to
6 exceed \$300,000 or the street value of the
7 methamphetamine, whichever is greater.

8 (F) A person who delivers or possesses with intent
9 to deliver 900 or more grams of methamphetamine or a
10 substance containing methamphetamine is guilty of a
11 Class X felony, subject to a term of imprisonment of
12 not less than 15 years and not more than 60 years, and
13 subject to a fine not to exceed \$400,000 or the street
14 value of the methamphetamine, whichever is greater.

15 (b) Aggravated delivery or possession with intent to
16 deliver methamphetamine or a substance containing
17 methamphetamine.

18 (1) It is unlawful to engage in the aggravated delivery
19 or possession with intent to deliver methamphetamine or a
20 substance containing methamphetamine. A person engages in
21 the aggravated delivery or possession with intent to
22 deliver methamphetamine or a substance containing
23 methamphetamine when the person violates paragraph (1) of
24 subsection (a) of this Section and:

25 (A) the person is at least 18 years of age and
26 knowingly delivers or possesses with intent to deliver

1 the methamphetamine or substance containing
2 methamphetamine to a person under 18 years of age;

3 (B) the person is at least 18 years of age and
4 knowingly uses, engages, employs, or causes another
5 person to use, engage, or employ a person under 18
6 years of age to deliver the methamphetamine or
7 substance containing methamphetamine;

8 (C) the person knowingly delivers or possesses
9 with intent to deliver the methamphetamine or
10 substance containing methamphetamine in any structure
11 or vehicle protected by one or more firearms, explosive
12 devices, booby traps, alarm systems, surveillance
13 systems, guard dogs, or dangerous animals;

14 (D) the person knowingly delivers or possesses
15 with intent to deliver the methamphetamine or
16 substance containing methamphetamine in any school, on
17 any real property comprising any school, or in any
18 conveyance owned, leased, or contracted by a school to
19 transport students to or from school or a
20 school-related activity, and at the time of the
21 violation persons under the age 18 are present, other
22 than the person who committed the offense, the offense
23 is committed during school hours, or the offense is
24 committed at times when persons under the age of 18 are
25 reasonably expected to be present in the school, in the
26 conveyance, or on the real property, such as when

1 after-school activities are occurring;

2 (E) the person delivers or causes another person to
3 deliver the methamphetamine or substance containing
4 methamphetamine to a woman that the person knows to be
5 pregnant; or

6 (F) (blank).

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

9 (A) A person who delivers or possesses with intent
10 to deliver less than 5 grams of methamphetamine or a
11 substance containing methamphetamine is guilty of a
12 Class 1 felony.

13 (B) A person who delivers or possesses with intent
14 to deliver 5 or more grams but less than 15 grams of
15 methamphetamine or a substance containing
16 methamphetamine is guilty of a Class X felony, subject
17 to a term of imprisonment of not less than 6 years and
18 not more than 30 years, and subject to a fine not to
19 exceed \$100,000 or the street value of the
20 methamphetamine, whichever is greater.

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 8 years and
26 not more than 40 years, and subject to a fine not to

1 exceed \$200,000 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 of methamphetamine or a
5 substance containing methamphetamine is guilty of a
6 Class X felony, subject to a term of imprisonment of
7 not less than 10 years and not more than 50 years, and
8 subject to a fine not to exceed \$300,000 or the street
9 value of the methamphetamine, whichever is greater.

10 (Source: P.A. 94-556, eff. 9-11-05; 94-830, eff. 6-5-06.)

11 Section 145. The Code of Criminal Procedure of 1963 is
12 amended by changing Section 124A-15 as follows:

13 (725 ILCS 5/124A-15)

14 Sec. 124A-15. Reversal of conviction; refund of fines,
15 fees, and costs.

16 (a) A defendant convicted in a criminal prosecution whose
17 conviction is reversed by a finding of factual innocence in a
18 collateral proceeding such as habeas corpus or post-conviction
19 relief under Article 122 of this Code is not liable for any
20 costs or fees of the court or circuit clerk's office, or for
21 any charge of subsistence while detained in custody. If the
22 defendant has paid any costs, fine, or fees, in the case, a
23 refund of those costs shall be determined by the judge and paid
24 by the clerk of the court. The timing of the refund payment

1 shall be determined by the clerk of the court based upon the
2 availability of funds in the subject fund account ~~the clerk or~~
3 ~~judge shall give him or her a certificate of the payment of~~
4 ~~those costs, fine, or fees with the items of those expenses,~~
5 ~~which, when audited and approved according to law, shall be~~
6 ~~refunded to the defendant.~~

7 (b) To receive a refund under this Section, a defendant
8 must submit a request for the refund to the clerk of the court
9 on a form and in a manner prescribed by the clerk. The
10 defendant must attach to the form an order from the court
11 demonstrating the defendant's right to the refund and the
12 amount of the refund.

13 (Source: P.A. 98-943, eff. 1-1-15.)

14 Section 150. The Unified Code of Corrections is amended by
15 changing Section 5-8-1.2 as follows:

16 (730 ILCS 5/5-8-1.2)

17 Sec. 5-8-1.2. County impact incarceration.

18 (a) Legislative intent. It is the finding of the General
19 Assembly that certain non-violent offenders eligible for
20 sentences of incarceration may benefit from the rehabilitative
21 aspects of a county impact incarceration program. It is the
22 intent of the General Assembly that such programs be
23 implemented as provided by this Section. This Section shall not
24 be construed to allow violent offenders to participate in a

1 county impact incarceration program.

2 (b) Under the direction of the Sheriff and with the
3 approval of the County Board of Commissioners, the Sheriff, in
4 any county with more than 3,000,000 inhabitants, may establish
5 and operate a county impact incarceration program for eligible
6 offenders. If the court finds under Section 5-4-1 that an
7 offender convicted of a felony meets the eligibility
8 requirements of the Sheriff's county impact incarceration
9 program, the court may sentence the offender to the county
10 impact incarceration program. If the court finds a person
11 charged with a felony meets the eligibility requirements of the
12 Sheriff's county impact incarceration program, the court may
13 order the person's participation in the county impact
14 incarceration program. The Sheriff shall be responsible for
15 monitoring all offenders who are sentenced to or ordered to the
16 county impact incarceration program, including the mandatory
17 period of monitored release following the 120 to 180 days of
18 impact incarceration. Offenders assigned to the county impact
19 incarceration program under an intergovernmental agreement
20 between the county and the Illinois Department of Corrections
21 are exempt from the provisions of this mandatory period of
22 monitored release. In the event the convicted offender is not
23 accepted for placement in the county impact incarceration
24 program, the court shall proceed to sentence the offender to
25 any other disposition authorized by this Code. If the offender
26 does not successfully complete the program, the offender's

1 failure to do so shall constitute a violation of the sentence
2 or order to the county impact incarceration program.

3 (c) In order to be eligible to be sentenced to or ordered
4 to a county impact incarceration program by the court, the
5 person shall meet all of the following requirements:

6 (1) the person must be not less than 17 years of age
7 nor more than 35 years of age;

8 (2) The person has not previously participated in the
9 impact incarceration program and has not previously served
10 more than one prior sentence of imprisonment for a felony
11 in an adult correctional facility;

12 (3) The person has not been convicted of a Class X
13 felony, first or second degree murder, armed violence,
14 aggravated kidnapping, criminal sexual assault, aggravated
15 criminal sexual abuse or a subsequent conviction for
16 criminal sexual abuse, forcible detention, or arson and has
17 not been convicted previously of any of those offenses.

18 (4) The person has been found in violation of probation
19 for an offense that is a Class 2, 3, or 4 felony that is not
20 a forcible felony as defined in Section 2-8 of the Criminal
21 Code of 2012 or a violent crime as defined in subsection

22 (c) of Section 3 of the Rights of Crime Victims and
23 Witnesses Act who otherwise could be sentenced to a term of
24 incarceration; or the person is convicted of an offense
25 that is a Class 2, 3, or 4 felony that is not a forcible
26 felony as defined in Section 2-8 of the Criminal Code of

1 2012 or a violent crime as defined in subsection (c) of
2 Section 3 of the Rights of Crime Victims and Witnesses Act
3 who has previously served a sentence of probation for any
4 felony offense and who otherwise could be sentenced to a
5 term of incarceration.

6 (5) The person must be physically able to participate
7 in strenuous physical activities or labor.

8 (6) The person must not have any mental disorder or
9 disability that would prevent participation in a county
10 impact incarceration program.

11 (7) The person was recommended and approved for
12 placement in the county impact incarceration program by the
13 Sheriff and consented in writing to participation in the
14 county impact incarceration program and to the terms and
15 conditions of the program. The Sheriff may consider, among
16 other matters, whether the person has any outstanding
17 detainers or warrants, whether the person has a history of
18 escaping or absconding, whether participation in the
19 county impact incarceration program may pose a risk to the
20 safety or security of any person and whether space is
21 available.

22 (c) The county impact incarceration program shall include,
23 among other matters, mandatory physical training and labor,
24 military formation and drills, regimented activities,
25 uniformity of dress and appearance, education and counseling,
26 including drug counseling where appropriate.

1 (d) Privileges including visitation, commissary, receipt
2 and retention of property and publications and access to
3 television, radio, and a library may be suspended or
4 restricted, notwithstanding provisions to the contrary in this
5 Code.

6 (e) The Sheriff shall issue written rules and requirements
7 for the program. Persons shall be informed of rules of behavior
8 and conduct. Persons participating in the county impact
9 incarceration program shall adhere to all rules and all
10 requirements of the program.

11 (f) Participation in the county impact incarceration
12 program shall be for a period of 120 to 180 days followed by a
13 mandatory term of monitored release for at least 8 months and
14 no more than 12 months supervised by the Sheriff. The period of
15 time a person shall serve in the impact incarceration program
16 shall not be reduced by the accumulation of good time. The
17 court may also sentence the person to a period of probation to
18 commence at the successful completion of the county impact
19 incarceration program.

20 (f-1) Persons who are charged with eligible offenses may be
21 ordered by the court to participate in the county impact
22 incarceration program for the period of 120 to 180 days. If the
23 offender is convicted of the eligible offense, the court may
24 sentence the offender to the remaining days required to
25 complete a total participation period of 120 to 180 days and
26 the mandatory term of monitored release.

1 (g) If the person successfully completes the county impact
2 incarceration program, the Sheriff shall certify the person's
3 successful completion of the program to the court and to the
4 county's State's Attorney. Upon successful completion of the
5 county impact incarceration program and mandatory term of
6 monitored release and if there is an additional period of
7 probation given, the person shall at that time begin his or her
8 probationary sentence under the supervision of the Adult
9 Probation Department.

10 (h) A person may be removed from the county impact
11 incarceration program for a violation of the terms or
12 conditions of the program or in the event he or she is for any
13 reason unable to participate. The failure to complete the
14 program for any reason, including the 8 to 12 month monitored
15 release period, shall be deemed a violation of the county
16 impact incarceration sentence. The Sheriff shall give notice to
17 the State's Attorney of the person's failure to complete the
18 program. The Sheriff shall file a petition for violation of the
19 county impact incarceration sentence with the court and the
20 State's Attorney may proceed on the petition under Section
21 5-6-4 of this Code. The Sheriff shall promulgate rules and
22 regulations governing conduct which could result in removal
23 from the program or in a determination that the person has not
24 successfully completed the program.

25 The mandatory conditions of every county impact
26 incarceration sentence shall include that the person either

1 while in the program or during the period of monitored release:

2 (1) not violate any criminal statute of any
3 jurisdiction;

4 (2) report or appear in person before any such person
5 or agency as directed by the court or the Sheriff;

6 (3) refrain from possessing a firearm or other
7 dangerous weapon;

8 (4) not leave the State without the consent of the
9 court or, in circumstances in which the reason for the
10 absence is of such an emergency nature that prior consent
11 by the court is not possible, without the prior
12 notification and approval of the Sheriff; and

13 (5) permit representatives of the Sheriff to visit at
14 the person's home or elsewhere to the extent necessary for
15 the Sheriff to monitor compliance with the program. Persons
16 shall have access to such rules, which shall provide that a
17 person shall receive notice of any such violation.

18 (i) The Sheriff may terminate the county impact
19 incarceration program at any time.

20 (j) The Sheriff shall report to the county board on or
21 before September 30th of each year on the county impact
22 incarceration program, including the composition of the
23 program by the offenders, by county of commitment, sentence,
24 age, offense, and race.

25 (Source: P.A. 97-1150, eff. 1-25-13.)

1 Section 155. The County Jail Good Behavior Allowance Act is
2 amended by changing Section 3.1 as follows:

3 (730 ILCS 130/3.1) (from Ch. 75, par. 32.1)

4 Sec. 3.1. (a) Within 3 months after the effective date of
5 this amendatory Act of 1986, the wardens who supervise
6 institutions under this Act shall meet and agree upon uniform
7 rules and regulations for behavior and conduct, penalties, and
8 the awarding, denying and revocation of good behavior
9 allowance, in such institutions; and such rules and regulations
10 shall be immediately promulgated and consistent with the
11 provisions of this Act. Interim rules shall be provided by each
12 warden consistent with the provision of this Act and shall be
13 effective until the promulgation of uniform rules. All
14 disciplinary action shall be consistent with the provisions of
15 this Act. Committed persons shall be informed of rules of
16 behavior and conduct, the penalties for violation thereof, and
17 the disciplinary procedure by which such penalties may be
18 imposed. Any rules, penalties and procedures shall be posted
19 and made available to the committed persons.

20 (b) Whenever a person is alleged to have violated a rule of
21 behavior, a written report of the infraction shall be filed
22 with the warden within 72 hours of the occurrence of the
23 infraction or the discovery of it, and such report shall be
24 placed in the file of the institution or facility. No
25 disciplinary proceeding shall be commenced more than 8 days

1 after the infraction or the discovery of it, unless the
2 committed person is unable or unavailable for any reason to
3 participate in the disciplinary proceeding.

4 (c) All or any of the good behavior allowance earned may be
5 revoked by the warden, unless he initiates the charge, and in
6 that case by the disciplinary board, for violations of rules of
7 behavior at any time prior to discharge from the institution,
8 consistent with the provisions of this Act.

9 (d) In disciplinary cases that may involve the loss of good
10 behavior allowance or eligibility to earn good behavior
11 allowance, the warden shall establish disciplinary procedures
12 consistent with the following principles:

13 (1) The warden may establish one or more disciplinary
14 boards, made up of one or more persons, to hear and
15 determine charges. Any person who initiates a disciplinary
16 charge against a committed person shall not serve on the
17 disciplinary board that will determine the disposition of
18 the charge. In those cases in which the charge was
19 initiated by the warden, he shall establish a disciplinary
20 board which will have the authority to impose any
21 appropriate discipline.

22 (2) Any committed person charged with a violation of
23 rules of behavior shall be given notice of the charge,
24 including a statement of the misconduct alleged and of the
25 rules this conduct is alleged to violate, no less than 24
26 hours before the disciplinary hearing.

1 (3) Any committed person charged with a violation of
2 rules is entitled to a hearing on that charge, at which
3 time he shall have an opportunity to appear before and
4 address the warden or disciplinary board deciding the
5 charge.

6 (4) The person or persons determining the disposition
7 of the charge may also summon to testify any witnesses or
8 other persons with relevant knowledge of the incident. The
9 person charged may be permitted to question any person so
10 summoned.

11 (5) If the charge is sustained, the person charged is
12 entitled to a written statement, within 14 days after the
13 hearing, of the decision by the warden or the disciplinary
14 board which determined the disposition of the charge, and
15 the statement shall include the basis for the decision and
16 the disciplinary action, if any, to be imposed.

17 (6) The warden may impose the discipline recommended by
18 the disciplinary board, or may reduce the discipline
19 recommended; however, no committed person may be penalized
20 more than 30 days of good behavior allowance for any one
21 infraction.

22 (7) The warden, in appropriate cases, may restore good
23 behavior allowance that has been revoked, suspended or
24 reduced.

25 (e) The warden, or his or her designee, may revoke the good
26 behavior allowance specified in Section 3 of this Act of an

1 inmate who is sentenced to the Illinois Department of
2 Corrections for misconduct committed by the inmate while in
3 custody of the warden. If an inmate while in custody of the
4 warden is convicted of assault or battery on a peace officer,
5 correctional employee, or another inmate, or for criminal
6 damage to property or for bringing into or possessing
7 contraband in the penal institution in violation of Section
8 31A-1.1 of the Criminal Code of 1961 or the Criminal Code of
9 2012, his or her day for day good behavior allowance shall be
10 revoked for each day such allowance was earned while the inmate
11 was in custody of the warden.

12 (f) If a lawsuit is filed by a person confined in a county
13 jail, whether serving a term of imprisonment or confined
14 pending trial or sentencing, against the sheriff or county, or
15 against any of their officers or employees, and the court makes
16 a specific finding that a pleading, motion, or other paper
17 filed by the prisoner is frivolous, the warden may revoke up to
18 90 days of good behavior allowance under this Act. If the
19 person has not accumulated 90 days of good behavior allowance
20 at the time of the finding, then the warden may revoke all of
21 the good behavior allowance accumulated by the prisoner. For
22 purposes of this subsection (f):

23 "Frivolous" means that a pleading, motion, or other filing
24 which purports to be a legal document filed by a confined
25 person in his or her lawsuit meets any or all of the following
26 criteria:

1 (A) it lacks an arguable basis either in law or in
2 fact;

3 (B) it is being presented for any improper purpose,
4 such as to harass or to cause unnecessary delay or needless
5 increase in the cost of litigation;

6 (C) the claims, defenses, and other legal contentions
7 in it are not warranted by existing law or by a
8 nonfrivolous argument for the extension, modification, or
9 reversal of existing law or the establishment of new law;

10 (D) the allegations and other factual contentions do
11 not have evidentiary support or, if specifically so
12 identified, are not likely to have evidentiary support
13 after a reasonable opportunity for further investigation
14 or discovery; or

15 (E) the denials of factual contentions are not
16 warranted on the evidence, or if specifically so
17 identified, are not reasonably based on a lack of
18 information or belief.

19 "Lawsuit" means a motion under Section 116-3 of the Code of
20 Criminal Procedure of 1963, a habeas corpus action under
21 Article X of the Code of Civil Procedure or under federal law
22 (28 U.S.C. 2254), an action under the federal Civil Rights Act
23 (42 U.S.C. 1983), a second or subsequent petition for
24 post-conviction relief under Article 122 of the Code of
25 Criminal Procedure of 1963 whether filed with or without leave
26 of court, or a second or subsequent petition for relief from

1 judgment under Section 2-1401 of the Code of Civil Procedure.

2 (Source: P.A. 96-495, eff. 1-1-10; 97-1150, eff. 1-25-13.)

3 Section 999. Effective date. This Act takes effect upon
4 becoming law.".