

1 AN ACT concerning criminal law.

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

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

6 (20 ILCS 2630/5.2)

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

8 (a) General Provisions.

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

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

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

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

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

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

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

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

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

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

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

- 1 (x) Parole (730 ILCS 5/5-1-16),  
2 (xi) Petty Offense (730 ILCS 5/5-1-17),  
3 (xii) Probation (730 ILCS 5/5-1-18),  
4 (xiii) Sentence (730 ILCS 5/5-1-19),  
5 (xiv) Supervision (730 ILCS 5/5-1-21), and  
6 (xv) Victim (730 ILCS 5/5-1-22).

7 (B) As used in this Section, "charge not initiated  
8 by arrest" means a charge (as defined by 730 ILCS  
9 5/5-1-3) brought against a defendant where the  
10 defendant is not arrested prior to or as a direct  
11 result of the charge.

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

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

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

16          (F) As used in this Section, "last sentence" means  
17          the sentence, order of supervision, or order of  
18          qualified probation (as defined by subsection  
19          (a)(1)(J)), for a criminal offense (as defined by  
20          subsection (a)(1)(D)) that terminates last in time in  
21          any jurisdiction, regardless of whether the petitioner  
22          has included the criminal offense for which the  
23          sentence or order of supervision or qualified  
24          probation was imposed in his or her petition. If  
25          multiple sentences, orders of supervision, or orders  
26          of qualified probation terminate on the same day and

1           are last in time, they shall be collectively  
2           considered the "last sentence" regardless of whether  
3           they were ordered to run concurrently.

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

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

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

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

25           (J) "Qualified probation" means an order of  
26           probation under Section 10 of the Cannabis Control

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

17 (K) "Seal" means to physically and electronically  
18 maintain the records, unless the records would  
19 otherwise be destroyed due to age, but to make the  
20 records unavailable without a court order, subject to  
21 the exceptions in Sections 12 and 13 of this Act. The  
22 petitioner's name shall also be obliterated from the  
23 official index required to be kept by the circuit  
24 court clerk under Section 16 of the Clerks of Courts  
25 Act, but any index issued by the circuit court clerk  
26 before the entry of the order to seal shall not be

1 affected.

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

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

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

17 (2.5) Commencing 180 days after July 29, 2016 (the  
18 effective date of Public Act 99-697), the law enforcement  
19 agency issuing the citation shall automatically expunge,  
20 on or before January 1 and July 1 of each year, the law  
21 enforcement records of a person found to have committed a  
22 civil law violation of subsection (a) of Section 4 of the  
23 Cannabis Control Act or subsection (c) of Section 3.5 of  
24 the Drug Paraphernalia Control Act in the law enforcement  
25 agency's possession or control and which contains the  
26 final satisfactory disposition which pertain to the person

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

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

19 (A) the sealing or expungement of the records of  
20 arrests or charges not initiated by arrest that result  
21 in an order of supervision for or conviction of: (i)  
22 any sexual offense committed against a minor; (ii)  
23 Section 11-501 of the Illinois Vehicle Code or a  
24 similar provision of a local ordinance; or (iii)  
25 Section 11-503 of the Illinois Vehicle Code or a  
26 similar provision of a local ordinance, unless the

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

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

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

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

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



1 (iii) Sections 12-3.1 or 12-3.2 of the  
2 Criminal Code of 1961 or the Criminal Code of  
3 2012, or Section 125 of the Stalking No Contact  
4 Order Act, or Section 219 of the Civil No Contact  
5 Order Act, or a similar provision of a local  
6 ordinance;

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

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

12 (D) (blank).

13 (b) Expungement.

14 (1) A petitioner may petition the circuit court to  
15 expunge the records of his or her arrests and charges not  
16 initiated by arrest when each arrest or charge not  
17 initiated by arrest sought to be expunged resulted in: (i)  
18 acquittal, dismissal, or the petitioner's release without  
19 charging, unless excluded by subsection (a)(3)(B); (ii) a  
20 conviction which was vacated or reversed, unless excluded  
21 by subsection (a)(3)(B); (iii) an order of supervision and  
22 such supervision was successfully completed by the  
23 petitioner, unless excluded by subsection (a)(3)(A) or  
24 (a)(3)(B); ~~or~~ (iv) an order of qualified probation (as  
25 defined in subsection (a)(1)(J)) and such probation was  
26 successfully completed by the petitioner; (v) an order of

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

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

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

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

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

1           the following time frames will apply:

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

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

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

1           the supervision.

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

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

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

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

1 Court Act of 1987.

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

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

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

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

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

3 (7) Nothing in this Section shall prevent the  
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,  
8 Section 410 of the Illinois Controlled Substances Act,  
9 Section 70 of the Methamphetamine Control and Community  
10 Protection Act, Section 5-6-3.3 or 5-6-3.4 of the Unified  
11 Code of Corrections, Section 12-4.3 or subdivision (b)(1)  
12 of Section 12-3.05 of the Criminal Code of 1961 or the  
13 Criminal Code of 2012, Section 10-102 of the Illinois  
14 Alcoholism and Other Drug Dependency Act, Section 40-10 of  
15 the Substance Use Disorder Act, or Section 10 of the  
16 Steroid Control Act.

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

24 (c) Sealing.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

1 any time.

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

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

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

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

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

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

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

26 (d) Procedure. The following procedures apply to

1 expungement under subsections (b), (e), and (e-6) and sealing  
2 under subsections (c) and (e-5):

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

15 (1.5) County fee waiver pilot program. From August 9,  
16 2019 (the effective date of Public Act 101-306) through  
17 December 31, 2020, in a county of 3,000,000 or more  
18 inhabitants, no fee shall be required to be paid by a  
19 petitioner if the records sought to be expunged or sealed  
20 were arrests resulting in release without charging or  
21 arrests or charges not initiated by arrest resulting in  
22 acquittal, dismissal, or conviction when the conviction  
23 was reversed or vacated, unless excluded by subsection  
24 (a)(3)(B). The provisions of this paragraph (1.5), other  
25 than this sentence, are inoperative on and after January  
26 1, 2022.

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

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

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

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

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

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

12          (5) Objections.

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

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

24          (6) Entry of order.

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

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

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

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

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

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

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

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

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

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

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



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

10           (9) Implementation of order.

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

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

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

1 circuit court clerk before the entry of the order;  
2 and

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

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

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

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

25 (iii) the records shall be impounded by the  
26 Department within 60 days of the date of service

1 of the order as ordered by the court, unless a  
2 motion to vacate, modify, or reconsider the order  
3 is filed pursuant to paragraph (12) of subsection  
4 (d) of this Section;

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

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

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

21 (i) the records shall be expunged (as defined  
22 in subsection (a)(1)(E)) by the arresting agency  
23 and any other agency as ordered by the court,  
24 within 60 days of the date of service of the order,  
25 unless a motion to vacate, modify, or reconsider  
26 the order is filed under paragraph (12) of

1 subsection (d) of this Section;

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

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

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

24 (v) in response to an inquiry for these  
25 records from anyone not authorized by law to  
26 access the records, the court, the Department, or

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

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

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

1 petition for discretionary appellate review, is  
2 pending.

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

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

23 (10) Fees. The Department may charge the petitioner a  
24 fee equivalent to the cost of processing any order to  
25 expunge or seal records. Notwithstanding any provision of  
26 the Clerks of Courts Act to the contrary, the circuit

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

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

21 (12) Motion to Vacate, Modify, or Reconsider. Under  
22 Section 2-1203 of the Code of Civil Procedure, the  
23 petitioner or any party entitled to notice may file a  
24 motion to vacate, modify, or reconsider the order granting  
25 or denying the petition to expunge or seal within 60 days  
26 of service of the order. If filed more than 60 days after

1 service of the order, a petition to vacate, modify, or  
2 reconsider shall comply with subsection (c) of Section  
3 2-1401 of the Code of Civil Procedure. Upon filing of a  
4 motion to vacate, modify, or reconsider, notice of the  
5 motion shall be served upon the petitioner and all parties  
6 entitled to notice of the petition.

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

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

24 (15) Compliance with Order Granting Petition to  
25 Expunge Records. While a party is seeking relief from the  
26 order granting the petition to expunge through a motion



1 filed under paragraph (12) of this subsection (d) or is  
2 appealing the order, and unless a court has entered a stay  
3 of that order, the parties entitled to notice of the  
4 petition must seal, but need not expunge, the records  
5 until there is a final order on the motion for relief or,  
6 in the case of an appeal, the issuance of that court's  
7 mandate.

8 (16) The changes to this subsection (d) made by Public  
9 Act 98-163 apply to all petitions pending on August 5,  
10 2013 (the effective date of Public Act 98-163) and to all  
11 orders ruling on a petition to expunge or seal on or after  
12 August 5, 2013 (the effective date of Public Act 98-163).

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

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

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

1 from the official index requested to be kept by the circuit  
2 court clerk under Section 16 of the Clerks of Courts Act in  
3 connection with the arrest and conviction for the offense for  
4 which he or she had been granted the certificate but the order  
5 shall not affect any index issued by the circuit court clerk  
6 before the entry of the order. All records sealed by the  
7 Department may be disseminated by the Department only as  
8 required by this Act or to the arresting authority, a law  
9 enforcement agency, 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 sealing, the  
15 circuit court clerk shall promptly mail a copy of the order to  
16 the person who was granted the certificate of eligibility for  
17 sealing.

18 (e-6) Whenever a person who has been convicted of an  
19 offense is granted a certificate of eligibility for  
20 expungement by the Prisoner Review Board which specifically  
21 authorizes expungement, he or she may, upon verified petition  
22 to the Chief Judge of the circuit where the person had been  
23 convicted, any judge of the circuit designated by the Chief  
24 Judge, or in counties of less than 3,000,000 inhabitants, the  
25 presiding trial judge at the petitioner's trial, have a court  
26 order entered expunging the record of arrest from the official

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

22 (f) Subject to available funding, the Illinois Department  
23 of Corrections shall conduct a study of the impact of sealing,  
24 especially on employment and recidivism rates, utilizing a  
25 random sample of those who apply for the sealing of their  
26 criminal records under Public Act 93-211. At the request of

1 the Illinois Department of Corrections, records of the  
2 Illinois Department of Employment Security shall be utilized  
3 as appropriate to assist in the study. The study shall not  
4 disclose any data in a manner that would allow the  
5 identification of any particular individual or employing unit.  
6 The study shall be made available to the General Assembly no  
7 later than September 1, 2010.

8 (g) Immediate Sealing.

9 (1) Applicability. Notwithstanding any other provision  
10 of this Act to the contrary, and cumulative with any  
11 rights to expungement or sealing of criminal records, this  
12 subsection authorizes the immediate sealing of criminal  
13 records of adults and of minors prosecuted as adults.

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

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

1           (4) Notice of Eligibility for Immediate Sealing. Upon  
2 entry of a disposition for an eligible record under this  
3 subsection (g), the defendant shall be informed by the  
4 court of his or her right to have eligible records  
5 immediately sealed and the procedure for the immediate  
6 sealing of these records.

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

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

22           (B) Contents of Petition. The immediate sealing  
23 petition shall be verified and shall contain the  
24 petitioner's name, date of birth, current address, and  
25 for each eligible record, the case number, the date of  
26 arrest if applicable, the identity of the arresting

1 authority if applicable, and other information as the  
2 court may require.

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

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

10 (E) Entry of Order. The presiding trial judge  
11 shall enter an order granting or denying the petition  
12 for immediate sealing during the hearing in which it  
13 is filed. Petitions for immediate sealing shall be  
14 ruled on in the same hearing in which the final  
15 disposition of the case is entered.

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

19 (G) Service of Order. An order to immediately seal  
20 eligible records shall be served in conformance with  
21 subsection (d) (8).

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

25 (I) Fees. The fee imposed by the circuit court  
26 clerk and the Department of State Police shall comply

1 with paragraph (1) of subsection (d) of this Section.

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

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

17 (L) Effect of Order. An order granting an  
18 immediate sealing petition shall not be considered  
19 void because it fails to comply with the provisions of  
20 this Section or because of an error asserted in a  
21 motion to vacate, modify, or reconsider. The circuit  
22 court retains jurisdiction to determine whether the  
23 order is voidable, and to vacate, modify, or  
24 reconsider its terms based on a motion filed under  
25 subparagraph (L) of this subsection (g).

26 (M) Compliance with Order Granting Petition to



1 Seal Records. Unless a court has entered a stay of an  
2 order granting a petition to immediately seal, all  
3 parties entitled to service of the order must fully  
4 comply with the terms of the order within 60 days of  
5 service of the order.

6 (h) Sealing; trafficking victims.

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

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

26 (3) If an objection is filed alleging that the

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

14 (i) Minor Cannabis Offenses under the Cannabis Control  
15 Act.

16 (1) Expungement of Arrest Records of Minor Cannabis  
17 Offenses.

18 (A) The Department of State Police and all law  
19 enforcement agencies within the State shall  
20 automatically expunge all criminal history records of  
21 an arrest, charge not initiated by arrest, order of  
22 supervision, or order of qualified probation for a  
23 Minor Cannabis Offense committed prior to June 25,  
24 2019 (the effective date of Public Act 101-27) if:

25 (i) One year or more has elapsed since the  
26 date of the arrest or law enforcement interaction

1           documented in the records; and

2                   (ii) No criminal charges were filed relating  
3           to the arrest or law enforcement interaction or  
4           criminal charges were filed and subsequently  
5           dismissed or vacated or the arrestee was  
6           acquitted.

7           (B) If the law enforcement agency is unable to  
8           verify satisfaction of condition (ii) in paragraph  
9           (A), records that satisfy condition (i) in paragraph  
10          (A) shall be automatically expunged.

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

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

17                  (ii) Records created prior to January 1, 2013,  
18                  but on or after January 1, 2000, shall be  
19                  automatically expunged prior to January 1, 2023;

20                  (iii) Records created prior to January 1, 2000  
21                  shall be automatically expunged prior to January  
22                  1, 2025.

23           In response to an inquiry for expunged records,  
24           the law enforcement agency receiving such inquiry  
25           shall reply as it does in response to inquiries when no  
26           records ever existed; however, it shall provide a

1 certificate of disposition or confirmation that the  
2 record was expunged to the individual whose record was  
3 expunged if such a record exists.

4 (D) Nothing in this Section shall be construed to  
5 restrict or modify an individual's right to have that  
6 individual's records expunged except as otherwise may  
7 be provided in this Act, or diminish or abrogate any  
8 rights or remedies otherwise available to the  
9 individual.

10 (2) Pardons Authorizing Expungement of Minor Cannabis  
11 Offenses.

12 (A) Upon June 25, 2019 (the effective date of  
13 Public Act 101-27), the Department of State Police  
14 shall review all criminal history record information  
15 and identify all records that meet all of the  
16 following criteria:

17 (i) one or more convictions for a Minor  
18 Cannabis Offense;

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

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

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

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

18           (ii) In response to a written objection from a  
19 State's Attorney, the Prisoner Review Board is  
20 authorized to conduct a non-public hearing to  
21 evaluate the information provided in the  
22 objection.

23           (iii) The Prisoner Review Board shall make a  
24 confidential and privileged recommendation to the  
25 Governor as to whether to grant a pardon  
26 authorizing expungement for each of the records

1 identified by the Department of State Police as  
2 described in paragraph (2) (A).

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

1           any index issued by the circuit court clerk before the  
2           entry of the order. Upon entry of the order of  
3           expungement, the circuit court clerk shall promptly  
4           provide a copy of the order and a certificate of  
5           disposition to the individual who was pardoned to the  
6           individual's last known address or by electronic means  
7           (if available) or otherwise make it available to the  
8           individual upon request.

9           (D) Nothing in this Section is intended to  
10          diminish or abrogate any rights or remedies otherwise  
11          available to the individual.

12          (3) Any individual may file a motion to vacate and  
13          expunge a conviction for a misdemeanor or Class 4 felony  
14          violation of Section 4 or Section 5 of the Cannabis  
15          Control Act. Motions to vacate and expunge under this  
16          subsection (i) may be filed with the circuit court, Chief  
17          Judge of a judicial circuit or any judge of the circuit  
18          designated by the Chief Judge. The circuit court clerk  
19          shall promptly serve a copy of the motion to vacate and  
20          expunge, and any supporting documentation, on the State's  
21          Attorney or prosecutor charged with the duty of  
22          prosecuting the offense. When considering such a motion to  
23          vacate and expunge, a court shall consider the following:  
24          the reasons to retain the records provided by law  
25          enforcement, the petitioner's age, the petitioner's age at  
26          the time of offense, the time since the conviction, and

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

20 (4) Any State's Attorney may file a motion to vacate  
21 and expunge a conviction for a misdemeanor or Class 4  
22 felony violation of Section 4 or Section 5 of the Cannabis  
23 Control Act. Motions to vacate and expunge under this  
24 subsection (i) may be filed with the circuit court, Chief  
25 Judge of a judicial circuit or any judge of the circuit  
26 designated by the Chief Judge, and may include more than



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

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

25 (6) If a person is arrested for a Minor Cannabis  
26 Offense as defined in this Section before June 25, 2019

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

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

25 (8) The Department of State Police shall allow a  
26 person to use the access and review process, established

1 in the Department of State Police, for verifying that his  
2 or her records relating to Minor Cannabis Offenses of the  
3 Cannabis Control Act eligible under this Section have been  
4 expunged.

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

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

13 (11) Information. The Department of State Police shall  
14 post general information on its website about the  
15 expungement process described in this subsection (i).

16 (Source: P.A. 100-201, eff. 8-18-17; 100-282, eff. 1-1-18;  
17 100-284, eff. 8-24-17; 100-287, eff. 8-24-17; 100-692, eff.  
18 8-3-18; 100-759, eff. 1-1-19; 100-776, eff. 8-10-18; 100-863,  
19 eff. 8-14-18; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;  
20 101-159, eff. 1-1-20; 101-306, eff. 8-9-19; 101-593, eff.  
21 12-4-19; 101-645, eff. 6-26-20; revised 8-18-20.)

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

24 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

1           Sec. 401. Manufacture or delivery, or possession with  
2 intent to manufacture or deliver, a controlled substance, a  
3 counterfeit substance, or controlled substance analog. Except  
4 as authorized by this Act, it is unlawful for any person  
5 knowingly to manufacture or deliver, or possess with intent to  
6 manufacture or deliver, a controlled substance other than  
7 methamphetamine and other than bath salts as defined in the  
8 Bath Salts Prohibition Act sold or offered for sale in a retail  
9 mercantile establishment as defined in Section 16-0.1 of the  
10 Criminal Code of 2012, a counterfeit substance, or a  
11 controlled substance analog. A violation of this Act with  
12 respect to each of the controlled substances listed herein  
13 constitutes a single and separate violation of this Act. For  
14 purposes of this Section, "controlled substance analog" or  
15 "analog" means a substance, other than a controlled substance,  
16 which is not approved by the United States Food and Drug  
17 Administration or, if approved, is not dispensed or possessed  
18 in accordance with State or federal law, and that has a  
19 chemical structure substantially similar to that of a  
20 controlled substance in Schedule I or II, or that was  
21 specifically designed to produce an effect substantially  
22 similar to that of a controlled substance in Schedule I or II.  
23 Examples of chemical classes in which controlled substance  
24 analogs are found include, but are not limited to, the  
25 following: phenethylamines, N-substituted piperidines,  
26 morphinans, ecgonines, quinazolinones, substituted indoles,

1 and arylcycloalkylamines. For purposes of this Act, a  
2 controlled substance analog shall be treated in the same  
3 manner as the controlled substance to which it is  
4 substantially similar.

5 (a) Any person who violates this Section with respect to  
6 the following amounts of controlled or counterfeit substances  
7 or controlled substance analogs, notwithstanding any of the  
8 provisions of subsections (c), (d), (e), (f), (g) or (h) to the  
9 contrary, is guilty of a Class X felony and shall be sentenced  
10 to a term of imprisonment as provided in this subsection (a)  
11 and fined as provided in subsection (b):

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

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

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

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

24 (1.5) (A) not less than 6 years and not more than 30  
25 years with respect to 15 grams or more but less than 100  
26 grams of a substance containing fentanyl, or an analog

1           thereof;

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

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

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

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

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

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

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

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

26          (B) not less than 9 years and not more than 40 years

1 with respect to 100 grams or more but less than 400 grams  
2 of a substance containing morphine, or an analog thereof;

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

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

9 (4) 200 grams or more of any substance containing  
10 peyote, or an analog thereof;

11 (5) 200 grams or more of any substance containing a  
12 derivative of barbituric acid or any of the salts of a  
13 derivative of barbituric acid, or an analog thereof;

14 (6) 200 grams or more of any substance containing  
15 amphetamine or any salt of an optical isomer of  
16 amphetamine, or an analog thereof;

17 (6.5) (blank);

18 (6.6) (blank);

19 (7) (A) not less than 6 years and not more than 30 years  
20 with respect to: (i) 15 grams or more but less than 100  
21 grams of a substance containing lysergic acid diethylamide  
22 (LSD), or an analog thereof, or (ii) 15 or more objects or  
23 15 or more segregated parts of an object or objects but  
24 less than 200 objects or 200 segregated parts of an object  
25 or objects containing in them or having upon them any  
26 amounts of any substance containing lysergic acid

1 diethylamide (LSD), or an analog thereof;

2 (B) not less than 9 years and not more than 40 years  
3 with respect to: (i) 100 grams or more but less than 400  
4 grams of a substance containing lysergic acid diethylamide  
5 (LSD), or an analog thereof, or (ii) 200 or more objects or  
6 200 or more segregated parts of an object or objects but  
7 less than 600 objects or less than 600 segregated parts of  
8 an object or objects containing in them or having upon  
9 them any amount of any substance containing lysergic acid  
10 diethylamide (LSD), or an analog thereof;

11 (C) not less than 12 years and not more than 50 years  
12 with respect to: (i) 400 grams or more but less than 900  
13 grams of a substance containing lysergic acid diethylamide  
14 (LSD), or an analog thereof, or (ii) 600 or more objects or  
15 600 or more segregated parts of an object or objects but  
16 less than 1500 objects or 1500 segregated parts of an  
17 object or objects containing in them or having upon them  
18 any amount of any substance containing lysergic acid  
19 diethylamide (LSD), or an analog thereof;

20 (D) not less than 15 years and not more than 60 years  
21 with respect to: (i) 900 grams or more of any substance  
22 containing lysergic acid diethylamide (LSD), or an analog  
23 thereof, or (ii) 1500 or more objects or 1500 or more  
24 segregated parts of an object or objects containing in  
25 them or having upon them any amount of a substance  
26 containing lysergic acid diethylamide (LSD), or an analog



1           thereof;

2           (7.5)(A) not less than 6 years and not more than 30 years  
3           with respect to: (i) 15 grams or more but less than 100  
4           grams of a substance listed in paragraph (1), (2), (2.1),  
5           (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
6           (26) of subsection (d) of Section 204, or an analog or  
7           derivative thereof, or (ii) 15 or more pills, tablets,  
8           caplets, capsules, or objects but less than 200 pills,  
9           tablets, caplets, capsules, or objects containing in them  
10          or having upon them any amounts of any substance listed in  
11          paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
12          (20.1), (21), (25), or (26) of subsection (d) of Section  
13          204, or an analog or derivative thereof;

14          (B) not less than 9 years and not more than 40 years  
15          with respect to: (i) 100 grams or more but less than 400  
16          grams of a substance listed in paragraph (1), (2), (2.1),  
17          (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
18          (26) of subsection (d) of Section 204, or an analog or  
19          derivative thereof, or (ii) 200 or more pills, tablets,  
20          caplets, capsules, or objects but less than 600 pills,  
21          tablets, caplets, capsules, or objects containing in them  
22          or having upon them any amount of any substance listed in  
23          paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
24          (20.1), (21), (25), or (26) of subsection (d) of Section  
25          204, or an analog or derivative thereof;

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

1 with respect to: (i) 400 grams or more but less than 900  
2 grams of a substance listed in paragraph (1), (2), (2.1),  
3 (2.2), (3), (14.1), (19), (20), (20.1), (21), (25), or  
4 (26) of subsection (d) of Section 204, or an analog or  
5 derivative thereof, or (ii) 600 or more pills, tablets,  
6 caplets, capsules, or objects but less than 1,500 pills,  
7 tablets, caplets, capsules, or objects containing in them  
8 or having upon them any amount of any substance listed in  
9 paragraph (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
10 (20.1), (21), (25), or (26) of subsection (d) of Section  
11 204, or an analog or derivative thereof;

12 (D) not less than 15 years and not more than 60 years  
13 with respect to: (i) 900 grams or more of any substance  
14 listed in paragraph (1), (2), (2.1), (2.2), (3), (14.1),  
15 (19), (20), (20.1), (21), (25), or (26) of subsection (d)  
16 of Section 204, or an analog or derivative thereof, or  
17 (ii) 1,500 or more pills, tablets, caplets, capsules, or  
18 objects containing in them or having upon them any amount  
19 of a substance listed in paragraph (1), (2), (2.1), (2.2),  
20 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of  
21 subsection (d) of Section 204, or an analog or derivative  
22 thereof;

23 (8) 30 grams or more of any substance containing  
24 pentazocine or any of the salts, isomers and salts of  
25 isomers of pentazocine, or an analog thereof;

26 (9) 30 grams or more of any substance containing

1           methaqualone or any of the salts, isomers and salts of  
2           isomers of methaqualone, or an analog thereof;

3           (10) 30 grams or more of any substance containing  
4           phencyclidine or any of the salts, isomers and salts of  
5           isomers of phencyclidine (PCP), or an analog thereof;

6           (10.5) 30 grams or more of any substance containing  
7           ketamine or any of the salts, isomers and salts of isomers  
8           of ketamine, or an analog thereof;

9           (10.6) 100 grams or more of any substance containing  
10          hydrocodone, or any of the salts, isomers and salts of  
11          isomers of hydrocodone, or an analog thereof;

12          (10.7) (blank);

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

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

19          (11) 200 grams or more of any substance containing any  
20          other controlled substance classified in Schedules I or  
21          II, or an analog thereof, which is not otherwise included  
22          in this subsection.

23          (b) Any person sentenced with respect to violations of  
24          paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
25          involving 100 grams or more of the controlled substance named  
26          therein, may in addition to the penalties provided therein, be

1 fined an amount not more than \$500,000 or the full street value  
2 of the controlled or counterfeit substance or controlled  
3 substance analog, whichever is greater. The term "street  
4 value" shall have the meaning ascribed in Section 110-5 of the  
5 Code of Criminal Procedure of 1963. Any person sentenced with  
6 respect to any other provision of subsection (a), may in  
7 addition to the penalties provided therein, be fined an amount  
8 not to exceed \$500,000.

9 (b-1) Excluding violations of this Act when the controlled  
10 substance is fentanyl, any person sentenced to a term of  
11 imprisonment with respect to violations of Section 401, 401.1,  
12 405, 405.1, 405.2, or 407, when the substance containing the  
13 controlled substance contains any amount of fentanyl, 3 years  
14 shall be added to the term of imprisonment imposed by the  
15 court, and the maximum sentence for the offense shall be  
16 increased by 3 years.

17 (c) Any person who violates this Section with regard to  
18 the following amounts of controlled or counterfeit substances  
19 or controlled substance analogs, notwithstanding any of the  
20 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
21 to the contrary, is guilty of a Class 1 felony. The fine for  
22 violation of this subsection (c) shall not be more than  
23 \$250,000:

24 (1) 3 grams ~~1 gram~~ or more but less than 15 grams of  
25 any substance containing heroin, or an analog thereof;

26 (1.5) 3 grams ~~1 gram~~ or more but less than 15 grams of

1 any substance containing fentanyl, or an analog thereof;

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

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

6 (4) 50 grams or more but less than 200 grams of any  
7 substance containing peyote, or an analog thereof;

8 (5) 50 grams or more but less than 200 grams of any  
9 substance containing a derivative of barbituric acid or  
10 any of the salts of a derivative of barbituric acid, or an  
11 analog thereof;

12 (6) 50 grams or more but less than 200 grams of any  
13 substance containing amphetamine or any salt of an optical  
14 isomer of amphetamine, or an analog thereof;

15 (6.5) (blank);

16 (7) (i) one gram ~~5 grams~~ or more but less than 15 grams  
17 of any substance containing lysergic acid diethylamide  
18 (LSD), or an analog thereof, or (ii) more than 40 ~~10~~  
19 objects or more than 40 ~~10~~ segregated parts of an object or  
20 objects but less than 100 ~~15~~ objects or less than 100 ~~15~~  
21 segregated parts of an object containing in them or having  
22 upon them any amount of any substance containing lysergic  
23 acid diethylamide (LSD), or an analog thereof;

24 (7.5) (i) 2 ~~5~~ grams or more but less than 15 grams of  
25 any substance listed in paragraph (1), (2), (2.1), (2.2),  
26 (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of

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

9 (8) 10 grams or more but less than 30 grams of any  
10 substance containing pentazocine or any of the salts,  
11 isomers and salts of isomers of pentazocine, or an analog  
12 thereof;

13 (9) 10 grams or more but less than 30 grams of any  
14 substance containing methaqualone or any of the salts,  
15 isomers and salts of isomers of methaqualone, or an analog  
16 thereof;

17 (10) 10 grams or more but less than 30 grams of any  
18 substance containing phencyclidine or any of the salts,  
19 isomers and salts of isomers of phencyclidine (PCP), or an  
20 analog thereof;

21 (10.5) 10 grams or more but less than 30 grams of any  
22 substance containing ketamine or any of the salts, isomers  
23 and salts of isomers of ketamine, or an analog thereof;

24 (10.6) 50 grams or more but less than 100 grams of any  
25 substance containing hydrocodone, or any of the salts,  
26 isomers and salts of isomers of hydrocodone, or an analog

1           thereof;

2           (10.7) (blank);

3           (10.8) 50 grams or more but less than 100 grams of any  
4           substance containing dihydrocodeine, or any of the salts,  
5           isomers and salts of isomers of dihydrocodeine, or an  
6           analog thereof;

7           (10.9) 50 grams or more but less than 100 grams of any  
8           substance containing oxycodone, or any of the salts,  
9           isomers and salts of isomers of oxycodone, or an analog  
10          thereof;

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

15          (c-5) (Blank).

16          (d) Any person who violates this Section with regard to  
17          any other amount of a controlled or counterfeit substance  
18          containing dihydrocodeine or classified in Schedules I or II,  
19          or an analog thereof, which is (i) a narcotic drug, (ii)  
20          lysergic acid diethylamide (LSD) or an analog thereof, (iii)  
21          any substance containing amphetamine or fentanyl or any salt  
22          or optical isomer of amphetamine or fentanyl, or an analog  
23          thereof, or (iv) any substance containing N-Benzylpiperazine  
24          (BZP) or any salt or optical isomer of N-Benzylpiperazine  
25          (BZP), or an analog thereof, is guilty of a Class 2 felony. The  
26          fine for violation of this subsection (d) shall not be more

1 than \$200,000.

2 (d-5) (Blank).

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

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

15 (g) (Blank). ~~Any person who violates this Section with~~  
16 ~~regard to any other amount of a controlled or counterfeit~~  
17 ~~substance classified in Schedule IV is guilty of a Class 3~~  
18 ~~felony. The fine for violation of this subsection (g) shall~~  
19 ~~not be more than \$100,000.~~

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

25 (i) (Blank). ~~This Section does not apply to the~~  
26 ~~manufacture, possession or distribution of a substance in~~



1 ~~conformance with the provisions of an approved new drug~~  
2 ~~application or an exemption for investigational use within the~~  
3 ~~meaning of Section 505 of the Federal Food, Drug and Cosmetic~~  
4 ~~Act.~~

5 (j) (Blank).

6 (k) Any person who knowingly manufactures or delivers any  
7 other amount of a controlled or counterfeit substance  
8 containing dihydrocodeine or classified in Schedules I or II,  
9 or an analog thereof, which is (i) a narcotic drug, (ii)  
10 lysergic acid diethylamide (LSD) or an analog thereof, (iii)  
11 any substance containing amphetamine or fentanyl or any salt  
12 or optical isomer of amphetamine or fentanyl, or an analog  
13 thereof, (iv) any substance containing N-Benzylpiperazine  
14 (BZP) or any salt or optical isomer of N-Benzylpiperazine  
15 (BZP), or an analog thereof, or (v) any other substance  
16 classified in Schedules I through V; is guilty of a Class 4  
17 felony. The fine for violation of this subsection (d) shall  
18 not be more than \$25,000.

19 (l) This Section does not apply to the manufacture,  
20 possession or distribution of a substance in conformance with  
21 the provisions of an approved new drug application or an  
22 exemption for investigational use within the meaning of  
23 Section 505 of the Federal Food, Drug and Cosmetic Act.

24 (Source: P.A. 99-371, eff. 1-1-16; 99-585, eff. 1-1-17;  
25 100-368, eff. 1-1-18.)

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

2 Sec. 402. Except as otherwise authorized by this Act, it  
3 is unlawful for any person knowingly to possess a controlled  
4 or counterfeit substance or controlled substance analog. A  
5 violation of this Act with respect to each of the controlled  
6 substances listed herein constitutes a single and separate  
7 violation of this Act. For purposes of this Section,  
8 "controlled substance analog" or "analog" means a substance,  
9 other than a controlled substance, which is not approved by  
10 the United States Food and Drug Administration or, if  
11 approved, is not dispensed or possessed in accordance with  
12 State or federal law, and that has a chemical structure  
13 substantially similar to that of a controlled substance in  
14 Schedule I or II, or that was specifically designed to produce  
15 an effect substantially similar to that of a controlled  
16 substance in Schedule I or II. Examples of chemical classes in  
17 which controlled substance analogs are found include, but are  
18 not limited to, the following: phenethylamines, N-substituted  
19 piperidines, morphinans, ecgonines, quinazolinones,  
20 substituted indoles, and arylcycloalkylamines. For purposes of  
21 this Act, a controlled substance analog shall be treated in  
22 the same manner as the controlled substance to which it is  
23 substantially similar.

24 (a) Any person who violates this Section with respect to  
25 the following controlled or counterfeit substances and  
26 amounts, notwithstanding any of the provisions of subsections

1 (c) and (d) to the contrary, is guilty of a Class 1 felony and  
2 shall, if sentenced to a term of imprisonment, be sentenced as  
3 provided in this subsection (a) and fined as provided in  
4 subsection (b):

5 (1) (A) not less than 4 years and not more than 15  
6 years with respect to 15 grams or more but less than  
7 100 grams of a substance containing heroin;

8 (B) not less than 6 years and not more than 30  
9 years with respect to 100 grams or more but less than  
10 400 grams of a substance containing heroin;

11 (C) not less than 8 years and not more than 40  
12 years with respect to 400 grams or more but less than  
13 900 grams of any substance containing heroin;

14 (D) not less than 10 years and not more than 50  
15 years with respect to 900 grams or more of any  
16 substance containing heroin;

17 (2) (A) not less than 4 years and not more than 15  
18 years with respect to 15 grams or more but less than  
19 100 grams of any substance containing cocaine;

20 (B) not less than 6 years and not more than 30  
21 years with respect to 100 grams or more but less than  
22 400 grams of any substance containing cocaine;

23 (C) not less than 8 years and not more than 40  
24 years with respect to 400 grams or more but less than  
25 900 grams of any substance containing cocaine;

26 (D) not less than 10 years and not more than 50

1 years with respect to 900 grams or more of any  
2 substance containing cocaine;

3 (3) (A) not less than 4 years and not more than 15  
4 years with respect to 15 grams or more but less than  
5 100 grams of any substance containing morphine;

6 (B) not less than 6 years and not more than 30  
7 years with respect to 100 grams or more but less than  
8 400 grams of any substance containing morphine;

9 (C) not less than 6 years and not more than 40  
10 years with respect to 400 grams or more but less than  
11 900 grams of any substance containing morphine;

12 (D) not less than 10 years and not more than 50  
13 years with respect to 900 grams or more of any  
14 substance containing morphine;

15 (4) 200 grams or more of any substance containing  
16 peyote;

17 (5) 200 grams or more of any substance containing a  
18 derivative of barbituric acid or any of the salts of a  
19 derivative of barbituric acid;

20 (6) 200 grams or more of any substance containing  
21 amphetamine or any salt of an optical isomer of  
22 amphetamine;

23 (6.5) (blank);

24 (7) (A) not less than 4 years and not more than 15  
25 years with respect to: (i) 15 grams or more but less  
26 than 100 grams of any substance containing lysergic

1 acid diethylamide (LSD), or an analog thereof, or (ii)  
2 100 ~~15~~ or more objects or 100 ~~15~~ or more segregated  
3 parts of an object or objects but less than 200 objects  
4 or 200 segregated parts of an object or objects  
5 containing in them or having upon them any amount of  
6 any substance containing lysergic acid diethylamide  
7 (LSD), or an analog thereof;

8 (B) not less than 6 years and not more than 30  
9 years with respect to: (i) 100 grams or more but less  
10 than 400 grams of any substance containing lysergic  
11 acid diethylamide (LSD), or an analog thereof, or (ii)  
12 200 or more objects or 200 or more segregated parts of  
13 an object or objects but less than 600 objects or less  
14 than 600 segregated parts of an object or objects  
15 containing in them or having upon them any amount of  
16 any substance containing lysergic acid diethylamide  
17 (LSD), or an analog thereof;

18 (C) not less than 8 years and not more than 40  
19 years with respect to: (i) 400 grams or more but less  
20 than 900 grams of any substance containing lysergic  
21 acid diethylamide (LSD), or an analog thereof, or (ii)  
22 600 or more objects or 600 or more segregated parts of  
23 an object or objects but less than 1500 objects or 1500  
24 segregated parts of an object or objects containing in  
25 them or having upon them any amount of any substance  
26 containing lysergic acid diethylamide (LSD), or an

1 analog thereof;

2 (D) not less than 10 years and not more than 50  
3 years with respect to: (i) 900 grams or more of any  
4 substance containing lysergic acid diethylamide (LSD),  
5 or an analog thereof, or (ii) 1500 or more objects or  
6 1500 or more segregated parts of an object or objects  
7 containing in them or having upon them any amount of a  
8 substance containing lysergic acid diethylamide (LSD),  
9 or an analog thereof;

10 (7.5) (A) not less than 4 years and not more than 15  
11 years with respect to: (i) 15 grams or more but less  
12 than 100 grams of any substance listed in paragraph  
13 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
14 (20.1), (21), (25), or (26) of subsection (d) of  
15 Section 204, or an analog or derivative thereof, or  
16 (ii) 15 or more pills, tablets, caplets, capsules, or  
17 objects but less than 200 pills, tablets, caplets,  
18 capsules, or objects containing in them or having upon  
19 them any amount of any substance listed in paragraph  
20 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
21 (20.1), (21), (25), or (26) of subsection (d) of  
22 Section 204, or an analog or derivative thereof;

23 (B) not less than 6 years and not more than 30  
24 years with respect to: (i) 100 grams or more but less  
25 than 400 grams of any substance listed in paragraph  
26 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),

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

10 (C) not less than 8 years and not more than 40  
11 years with respect to: (i) 400 grams or more but less  
12 than 900 grams of any substance listed in paragraph  
13 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
14 (20.1), (21), (25), or (26) of subsection (d) of  
15 Section 204, or an analog or derivative thereof, or  
16 (ii) 600 or more pills, tablets, caplets, capsules, or  
17 objects but less than 1,500 pills, tablets, caplets,  
18 capsules, or objects containing in them or having upon  
19 them any amount of any substance listed in paragraph  
20 (1), (2), (2.1), (2.2), (3), (14.1), (19), (20),  
21 (20.1), (21), (25), or (26) of subsection (d) of  
22 Section 204, or an analog or derivative thereof;

23 (D) not less than 10 years and not more than 50  
24 years with respect to: (i) 900 grams or more of any  
25 substance listed in paragraph (1), (2), (2.1), (2.2),  
26 (3), (14.1), (19), (20), (20.1), (21), (25), or (26)

1 of subsection (d) of Section 204, or an analog or  
2 derivative thereof, or (ii) 1,500 or more pills,  
3 tablets, caplets, capsules, or objects containing in  
4 them or having upon them any amount of a substance  
5 listed in paragraph (1), (2), (2.1), (2.2), (3),  
6 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
7 subsection (d) of Section 204, or an analog or  
8 derivative thereof;

9 (8) 30 grams or more of any substance containing  
10 pentazocine or any of the salts, isomers and salts of  
11 isomers of pentazocine, or an analog thereof;

12 (9) 30 grams or more of any substance containing  
13 methaqualone or any of the salts, isomers and salts of  
14 isomers of methaqualone;

15 (10) 30 grams or more of any substance containing  
16 phencyclidine or any of the salts, isomers and salts of  
17 isomers of phencyclidine (PCP);

18 (10.5) 30 grams or more of any substance containing  
19 ketamine or any of the salts, isomers and salts of isomers  
20 of ketamine;

21 (11) 200 grams or more of any substance containing any  
22 substance classified as a narcotic drug in Schedules I or  
23 II, or an analog thereof, which is not otherwise included  
24 in this subsection.

25 (a-1) Any person who violates this Section with regard to  
26 the following controlled substances and amounts is guilty



1 of a Class 4 felony:

2 (1) 3 grams or more but less than 15 grams of a  
3 substance containing heroin;

4 (2) 3 grams or more but less than 200 grams of a  
5 substance containing fentanyl;

6 (3) 5 grams or more but less than 15 grams of a  
7 substance containing cocaine;

8 (4) 4 grams or more but less than 15 grams of a  
9 substance containing morphine;

10 (5) (i) 1 gram or more but less than 15 grams of any  
11 substance containing lysergic acid diethylamide (LSD); or  
12 (ii) more than 40 objects or segregated parts of an object  
13 or objects but less than 100 objects or segregated parts  
14 of an object or objects containing in them or having upon  
15 them any amount of a substance containing lysergic acid  
16 diethylamide (LSD), or an analog thereof;

17 (6) (i) 2 grams or more but less than 15 grams of any  
18 substance listed in paragraph (1), (2), (2.1), (2.2), (3),  
19 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
20 subsection (d) of Section 204, or an analog or derivative  
21 thereof; or (ii) 5 or more pills, tablets, caplets,  
22 capsules, or objects containing in them or having upon  
23 them any amount of any substance listed in paragraph (1),  
24 (2), (2.1), (2.2), (3), (14.1), (19), (20), (20.1), (21),  
25 (25), or (26) of subsection (d) of Section 204, or an  
26 analog or derivative thereof;

1           (7) 4 grams or more but less than 30 grams of any  
2           substance containing pentazocine or any of the salts,  
3           isomers and salts of isomers of pentazocine, or an analog  
4           thereof;

5           (8) 3 grams or more but less than 15 grams of any  
6           substance containing phencyclidine or any of the salts,  
7           isomers and salts of isomers of phencyclidine (PCP), or an  
8           analog thereof;

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

12           (10) (i) 4 grams or more but less than 200 grams of a  
13           substance containing hydrocodone, dihydrocodeine,  
14           oxycodone, or any of the salts, isomers, and salts of  
15           isomers of hydrocodone, dihydrocodeine, or oxycodone, or  
16           an analog thereof; or (ii) more than 40 pills, tablets,  
17           caplets, capsules, or objects but less than 100 pills,  
18           tablets, capsules, or objects containing hydrocodone,  
19           dihydrocodeine, oxycodone, or any of the salts, isomers,  
20           and salts of isomers of hydrocodone, dihydrocodeine, or  
21           oxycodone, or an analog of hydrocodone, dihydrocodeine, or  
22           oxycodone.

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

25           (a-5) Any person who violates this Section with regard to  
26           the following controlled substances and amounts is guilty of a

Class A misdemeanor:

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

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

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

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

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

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

(7) less than 4 grams any substance containing pentazocine or any of the salts, isomers and salts of

1 isomers of pentazocine, or an analog thereof;

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

5 (9) less than 3 grams of any substance containing  
6 ketamine or any of the salts, isomers and salts of isomers  
7 of ketamine;

8 (10) (i) less than 4 grams of any substance containing  
9 hydrocodone, dihydrocodeine, oxycodone, or any of the  
10 salts, isomers, and salts of isomers of hydrocodone,  
11 dihydrocodeine, or oxycodone, or an analog thereof; or  
12 (ii) less than 40 pills, tablets, caplets, capsules, or  
13 objects containing hydrocodone, dihydrocodeine,  
14 oxycodone, or any of the salts, isomers, and salts of  
15 isomers of hydrocodone, dihydrocodeine, or oxycodone, or  
16 an analog of hydrocodone, dihydrocodeine, or oxycodone.

17 (b) Any person sentenced with respect to violations of  
18 paragraph (1), (2), (3), (7), or (7.5) of subsection (a)  
19 involving 100 grams or more of the controlled substance named  
20 therein, may in addition to the penalties provided therein, be  
21 fined an amount not to exceed \$200,000 or the full street value  
22 of the controlled or counterfeit substances, whichever is  
23 greater. The term "street value" shall have the meaning  
24 ascribed in Section 110-5 of the Code of Criminal Procedure of  
25 1963. Any person sentenced with respect to any other provision  
26 of subsection (a), may in addition to the penalties provided

1 therein, be fined an amount not to exceed \$200,000.

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

8 (d) Any person who violates this Section with regard to  
9 any amount of anabolic steroid is guilty of a Class C  
10 misdemeanor for the first offense and a Class B misdemeanor  
11 for a subsequent offense committed within 2 years of a prior  
12 conviction.

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

14 (720 ILCS 570/408) (from Ch. 56 1/2, par. 1408)

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

16 (a) Any person convicted of a second or subsequent felony  
17 offense under this Act may be sentenced to imprisonment for a  
18 term up to twice the maximum term otherwise authorized, fined  
19 an amount up to twice that otherwise authorized, or both.

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

23 (1) has been convicted, subsequent to the effective  
24 date of this amendatory Act of the 102nd General Assembly,  
25 of a felony violation of this Act or the Methamphetamine

1       Control and Community Protection Act or under any  
2       substantially similar law of the United States or of any  
3       state relating to controlled substances; or

4       (2) has at any time been convicted of a Class 1 or  
5       higher felony violation of this Act or the Methamphetamine  
6       Control and Community Protection Act or under any  
7       substantially similar law of the United States or of any  
8       state relating to controlled substances. ~~offender has at~~  
9       ~~any time been convicted under this Act or under any law of~~  
10      ~~the United States or of any State relating to controlled~~  
11      ~~substances.~~

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

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

16           (720 ILCS 646/55)

17           Sec. 55. Methamphetamine delivery.

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

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

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

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

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

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

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

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

1           methamphetamine, whichever is greater.

2           (E) A person who delivers or possesses with intent  
3           to deliver 400 or more grams but less than 900 grams of  
4           methamphetamine or a substance containing  
5           methamphetamine is guilty of a Class X felony, subject  
6           to a term of imprisonment of not less than 12 years and  
7           not more than 50 years, and subject to a fine not to  
8           exceed \$300,000 or the street value of the  
9           methamphetamine, whichever is greater.

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

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

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



1           (A) the person is at least 18 years of age and  
2           knowingly delivers or possesses with intent to deliver  
3           the methamphetamine or substance containing  
4           methamphetamine to a person under 18 years of age;

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

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

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

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

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

8           (F) (blank).

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

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

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

23          (C) A person who delivers or possesses with intent  
24          to deliver 15 or more grams but less than 100 grams of  
25          methamphetamine or a substance containing  
26          methamphetamine is guilty of a Class X felony, subject

1 to a term of imprisonment of not less than 8 years and  
2 not more than 40 years, and subject to a fine not to  
3 exceed \$200,000 or the street value of the  
4 methamphetamine, whichever is greater.

5 (D) A person who delivers or possesses with intent  
6 to deliver 100 or more grams of methamphetamine or a  
7 substance containing methamphetamine is guilty of a  
8 Class X felony, subject to a term of imprisonment of  
9 not less than 10 years and not more than 50 years, and  
10 subject to a fine not to exceed \$300,000 or the street  
11 value of the methamphetamine, whichever is greater.

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

13 (720 ILCS 646/60)

14 Sec. 60. Methamphetamine possession.

15 (a) It is unlawful knowingly to possess methamphetamine or  
16 a substance containing methamphetamine.

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

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

22 (2) A person who possesses 3 ~~5~~ or more grams but less  
23 than 15 grams of methamphetamine or a substance containing  
24 methamphetamine is guilty of a Class 4 ~~2~~ felony.

25 (3) A person who possesses 15 or more grams but less

1 than 100 grams of methamphetamine or a substance  
2 containing methamphetamine is guilty of a Class 1 felony.

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

9 (5) A person who possesses 400 or more grams but less  
10 than 900 grams of methamphetamine or a substance  
11 containing methamphetamine is guilty of a Class X felony,  
12 subject to a term of imprisonment of not less than 8 years  
13 and not more than 40 years, and subject to a fine not to  
14 exceed \$200,000.

15 (6) A person who possesses 900 or more grams of  
16 methamphetamine or a substance containing methamphetamine  
17 is guilty of a Class X felony, subject to a term of  
18 imprisonment of not less than 10 years and not more than 50  
19 years, and subject to a fine not to exceed \$300,000.

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

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

23 (725 ILCS 5/116-2.2 new)

24 Sec. 116-2.2. Retroactive resentencing.

1       (a) A person serving a sentence, including a sentence of  
2 probation, for an offense for which the statutory penalty has  
3 been subsequently reduced under this amendatory Act of the  
4 102nd General Assembly may petition the trial court that  
5 entered the judgment of conviction to request resentencing in  
6 accordance with the statutory penalty in effect at the time of  
7 the filing of the petition.

8       (b) Within 30 days of the effective date of this  
9 amendatory Act of the 102nd General Assembly, the Department  
10 of Corrections shall identify each individual serving a  
11 sentence of imprisonment in the Department who may be eligible  
12 for resentencing under subsection (a), and then notify the  
13 prosecuting authority of the jurisdiction in which the person  
14 was convicted. No later than 60 days after receiving notice  
15 from the Department, the prosecuting authority shall petition  
16 the trial court that entered the judgment of conviction to  
17 request resentencing in accordance with the statutory penalty  
18 in effect at the time of filing the petition.

19       (c) If the petition satisfies the criteria in subsection  
20 (a), then a new sentencing hearing shall be held in accordance  
21 with the Unified Code of Corrections. At the hearing, both the  
22 defendant and the State may offer evidence of the defendant's  
23 conduct during his or her period of absence from the court.  
24 Defendants shall be entitled to have an attorney represent  
25 them at the resentencing hearing. The court may impose any  
26 sentence authorized by the Unified Code of Corrections, except

1 that resentencing under this Section may not result in the  
2 imposition of a term of imprisonment or probation longer than  
3 the original sentence. A person who is resentenced under this  
4 subsection (c) shall be given credit for all time served in  
5 custody or on probation, or both.

6 (d) A person who has completed his or her sentence for a  
7 conviction of a felony offense for which the statutory penalty  
8 has been subsequently reduced to a misdemeanor under this  
9 amendatory Act of the 102nd General Assembly may petition the  
10 trial court that entered the judgment of conviction to  
11 designate the felony conviction as a misdemeanor.

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

16 (f) If a person has been charged prior to the effective  
17 date of this amendatory Act of the 102nd General Assembly with  
18 a felony offense for which the statutory penalty has been  
19 reduced to a misdemeanor under this amendatory Act of the  
20 102nd General Assembly, the charges shall be modified to  
21 reflect the new penalty.

22 (g) If a person is serving a sentence of probation for an  
23 offense for which the penalty was subsequently reduced to a  
24 misdemeanor under this amendatory Act of the 102nd General  
25 Assembly, and the person's probation is revoked under Section  
26 4-6-4 of this Code, the person shall not be sentenced to a term

1 of incarceration that exceeds the current maximum sentence.

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

4 (730 ILCS 5/5-6-3.7 new)

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

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

9 (b) In this Section:

10 (1) "Appropriate and accessible" means an organization  
11 providing services that are likely to be needed by a  
12 participant in the Program, and whose location and hours  
13 of service make transportation to and from reasonable for  
14 the participant.

15 (2) "Human services organization" means any  
16 organization equipped to provide screening services  
17 described in paragraph (2) of subsection (e) or authorized  
18 by the State to perform behavioral health treatment or  
19 substance use intervention and treatment or other social  
20 services, including, but not limited to, homeless  
21 services, education, and job training and placement.

22 (3) "Violent offense" means any offense in which  
23 bodily harm was inflicted or in which force was used  
24 against any person or threatened against any person, any

1 offense involving sexual conduct, sexual penetration, or  
2 sexual exploitation, any offense of domestic violence,  
3 domestic battery, violation of an order of protection,  
4 stalking, or hate crime.

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

8 (d) Whenever any person who does not have a felony case  
9 pending is arrested for and charged with a misdemeanor offense  
10 that is not a violent offense and does not involve the  
11 possession of a firearm or dangerous weapon, the court, with  
12 the consent of the defendant, may suspend the proceedings  
13 prior to the entry of a finding of guilt or plea of guilty to  
14 ascertain the defendant's eligibility to participate in and  
15 complete the Misdemeanor Diversion Program. If the Program was  
16 established by the State's Attorney, then except as otherwise  
17 provided in this subsection (d), the defendant's eligibility  
18 to participate in the Program shall be within the discretion  
19 of the State's Attorney.

20 (e) The State's Attorney shall be responsible for  
21 identifying eligible defendants. Placement into the Program  
22 shall include the following:

23 (1) At the defendant's initial court appearance  
24 appearance or soon as the defendant's eligibility for the  
25 Program may be ascertained, the State's Attorney shall  
26 inform the defendant of the existence of the Program, the



1       need for a preliminary screen for behavioral health or  
2       other social service needs, the requirements for  
3       successful completion, the implications of non-compliance,  
4       and that successful completion shall result in dismissal  
5       of the charge and the defendant's eligibility to petition  
6       for sealing or expungement of his or her record with no  
7       waiting period.

8           (2) If the defendant agrees, the defendant shall be  
9       immediately referred to a human services organization that  
10       shall perform a brief screening to determine the presence  
11       of any substance use, mental health, or other social  
12       service needs experienced by the defendant.

13           (3) If the screen does not indicate the defendant's  
14       need for services, the court shall continue the case for  
15       further proceedings under the Code of Criminal Procedure  
16       of 1963.

17           (4) If the screen indicates a need for services, the  
18       defendant shall be considered eligible for participation.  
19       Participation is voluntary. To participate, the defendant  
20       shall sign a written agreement with the court that he or  
21       she understands and agrees to the conditions of  
22       participation, as set forth in subsection (f) of this  
23       Section.

24           (5) Upon acceptance of the agreement by the court, the  
25       human services organization responsible for the screening  
26       shall refer the defendant to an appropriate and accessible

1 human services organization responsible for conducting a  
2 comprehensive assessment and developing a service plan, as  
3 described in subsection (f) of this Section.

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

8 (f) The defendant shall agree to submit to a more  
9 comprehensive assessment of behavioral health and other social  
10 service needs conducted by the human services organization to  
11 which the defendant is referred. As a result of this  
12 assessment, the organization shall prepare recommendations for  
13 treatment and other social services which would likely benefit  
14 the defendant, which the human services organization shall  
15 present to and discuss with the defendant who may agree to  
16 pursue treatment voluntarily. Adherence to the service plan  
17 recommendations may not be a condition of participation.  
18 Completion of all of the conditions of participation shall  
19 occur no more than 90 days from the date of admission into the  
20 Program.

21 (g) Under no circumstances shall the human services  
22 organization performing either the brief screening, referral,  
23 and reporting under subsection (e) or the assessment and  
24 service recommendations under subsection (f) be required to  
25 perform those services in the absence of reimbursement for  
26 those services. The human services organization may already

1 have an existing mechanism for reimbursement, or a new  
2 mechanism may be created by way of agreement with the court,  
3 the State's Attorney, or the jurisdiction in which the  
4 Misdemeanor Diversion Program was developed specifically for  
5 the purposes of the Program.

6 (h) If all conditions of participation have been met, the  
7 defendant shall be deemed to have successfully completed the  
8 Program and the court shall dismiss the proceedings against  
9 the defendant. Discharge and dismissal shall not be considered  
10 a conviction for purposes of disqualification or disability  
11 imposed by law upon conviction of a crime.

12 (i) Non-compliance with the conditions of participation,  
13 or failure to complete the conditions of participation within  
14 90 days, shall be considered a violation and the court shall  
15 continue the case for further proceedings under the Code of  
16 Criminal Procedure of 1963, as if the defendant had not  
17 participated in the Program.