

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),

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

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

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

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

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

(F) As used in this Section, "last sentence" means the sentence, order of supervision, or order of qualified probation (as defined by subsection (a)(1)(J)), for a criminal offense (as defined by subsection (a)(1)(D)) that terminates last in time in any jurisdiction, regardless of whether the petitioner has included the criminal offense for which the sentence or order of supervision or qualified probation was imposed in his or her petition. If multiple sentences, orders of supervision, or orders 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

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" includes, but is not limited to, the offenses of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.

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

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

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

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

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

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

(D) (blank) .

(b) Expungement.

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

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

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

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

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

(B) When the arrest or charge not initiated by arrest sought to be expunged resulted in an order of 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

the supervision.

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

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

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

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

Court Act of 1987.

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

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

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

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

(B) seal felony records for a violation of the Illinois Controlled Substances Act, the 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

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

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

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

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

(9) Implementation of order.

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

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

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

circuit court clerk before the entry of the order;
and

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

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

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

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

(iii) the records shall be impounded by the 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.

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

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

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

(B) Contents of Petition. The immediate sealing petition shall be verified and shall contain the petitioner's name, date of birth, current address, and for each eligible record, the case number, the date of 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

documented in the records; and

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

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

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

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

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

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

In response to an inquiry for expunged records, the law enforcement agency receiving such inquiry shall reply as it does in response to inquiries when no 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.

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

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

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

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

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

(C) If an individual has been granted a pardon authorizing expungement as described in this Section, the Prisoner Review Board, through the Attorney General, shall file a petition for expungement with the Chief Judge of the circuit or any judge of the circuit designated by the Chief Judge where the individual had been convicted. Such petition may include more than one individual. Whenever an individual who has been convicted of an offense is granted a pardon by the Governor that specifically authorizes expungement, an objection to the petition may not be filed. Petitions to expunge under this subsection (i) may include more than one individual. Within 90 days of the filing of such a petition, the court shall enter an order expunging the records of arrest from the official records of the arresting authority and order that the records of the circuit court clerk and the Department of State Police be expunged and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which the individual 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

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

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

(8) The Department of State Police shall allow a 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

thereof;

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

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

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

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

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

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

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

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

(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

any substance containing fentanyl, or an analog thereof;

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

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

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

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

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

(6.5) (blank);

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

(7.5) (i) 2 ~~5~~ grams or more but less than 15 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

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.)

(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

analog thereof;

(D) not less than 10 years and not more than 50 years with respect to: (i) 900 grams or more of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 1500 or more objects or 1500 or more 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;

(7.5) (A) not less than 4 years and not more than 15 years with respect to: (i) 15 grams or more but less than 100 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) 15 or more pills, tablets, caplets, capsules, or objects but less than 200 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;

(B) not less than 6 years and not more than 30 years with respect to: (i) 100 grams or more but less than 400 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) 200 or more pills, tablets, caplets, capsules, or objects but less than 600 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;

(C) not less than 8 years and not more than 40 years with respect to: (i) 400 grams or more but less than 900 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) 600 or more pills, tablets, caplets, capsules, or objects but less than 1,500 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;

(D) not less than 10 years and not more than 50 years with respect to: (i) 900 grams or more of any substance listed in paragraph (1), (2), (2.1), (2.2), (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

1 Class A misdemeanor:

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

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

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

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

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

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

25 (7) less than 4 grams any substance containing
26 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:

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

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

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

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

(D) A person who delivers or possesses with intent to deliver 100 or more grams but less than 400 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 9 years and not more than 40 years, and subject to a fine not to 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:

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

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

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

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

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

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

(F) (blank) .

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

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

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

(C) A person who delivers or possesses with intent to deliver 15 or more grams but less than 100 grams of methamphetamine or a substance containing 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.