

## Expungement of Criminal History for Minor Violations

### *Automatic Expungement*

- Minor Cannabis Offense
  - A minor cannabis offense is defined as a violation on Sections 4 or 5 of the Cannabis Control Act, concerning not more than 30 grams of cannabis, provided the offense is not associated with a violent crime, as defined in the Rights of Crime Victims and Witnesses Act.
- The Department of State Police and all local law enforcement agencies must automatically expunge records pertaining to arrests, orders of supervision, or orders of qualified probation for minor cannabis offenses if:
  - One year or more has elapsed since the date of the arrest or law enforcement interaction documented in the records; and
  - No criminal charges were filed relating to the arrest or interaction or the charges were filed and subsequently dismissed or vacated or the arrestee was acquitted.
- Schedule of automatic expungements
  - Records created between prior to the effective date of this bill and January 1, 2013 must be automatically expunged before January 1, 2021;
  - Records created between January 1, 2000 and January 1, 2013 must be automatically expunged before January 1, 2023; and
  - Records created prior to January 1, 2000 must be automatically expunged before January 1, 2025.

### *Pardon Authorizing Expungement*

- The State Police must review all criminal history record information and identify records that meet the following criteria:
  - One or more convictions of minor cannabis offense;
  - The conviction(s) identified did not include a penalty enhancement; and
  - The conviction is not associated with an arrest, conviction or other disposition for a violent crime.
- Within 180 days after the effective date of this bill, the State Police must notify the Prisoner Review Board of all eligible records.
  - The Prisoner Review Board will notify State's Attorneys of each record identified as a Class 4 felony. State's Attorneys have 60 days to provide a written objection on the sole basis that the record does not meet the required criteria.
  - The Prisoner Review Board may conduct non-public hearings to evaluate the objections.
  - The Prisoner Review Board will make confidential and privileged recommendations to the Governor as to whether to grant a pardon authorizing expungement.

- After pardons are issued, the Prisoner Review Board, through the Attorney General, will file petitions for expungement on behalf of the individuals granted pardons. The petition may be filed with the Chief Judge of a circuit or with any judge of the circuit designated by the Chief Judge. Multiple individuals may be filed on one petition and objections will not be allowed.
  - Within 90 days, the court shall enter an order expunging the records and order that court and law enforcement records be expunged.
- Upon entry of the order to expunge or seal records, the court must provide copies of the order to the Department of State Police, the arresting agency or other criminal justice agency determined by the court.

#### *Petition Process*

- Any individual with a conviction for a misdemeanor or Class 4 felony violation of Section 4 or Section 5 of the Cannabis Control Act may file a motion to vacate and expunge the conviction. The motion may be filed individually, through a legal aid agency, or by the State's Attorney of a county. The motion to vacate and expunge may be filed with the circuit court, the Chief Judge of a judicial circuit, or with any judge designated by the Chief Judge. Multiple individuals are allowed to be on one petition. Objections may be filed within 60 days, along with any supporting evidence. The court must consider the following factors in deciding on a motion to vacate and expunge:
  - The individual's age, age at time of conviction, time since the conviction, and the specific adverse consequences if denied.
- An individual may petition after the completion of any sentence imposed by the conviction
- If the motion to vacate and expunge is granted, the court and law enforcement records shall be expunged.
- A person who was arrested for a minor cannabis offense before the effective date of this bill, but who has not yet been sentenced, may petition for expungement through this process as well.

#### *Other Expungement Information*

- A person imprisoned solely for one or more minor cannabis offenses shall be released from incarceration upon issuance of an order under any of these methods.
- Upon entry of an order of expungement through any method, the court shall attempt to provide a copy of the order to the individual whose record has been expunged to the last known address of that individual.
- The State Police must allow the individual to use the access and review process to verify that the records have been expunged.