

Illinois Marijuana Expungement

Minor Cannabis Offense

Violation of Section 4 or 5 of Cannabis Control Act

Not more than 30 grams

As long as violation did not include Section 7 (juvenile) enhancement AND

Not associated with an arrest, conviction, or other disposition for a violent crime as defined in Section 3(c) of Rights of Crime Victims and Witnesses Act

Section 4 of CCA: Possession

10 grams or less: civil law violation between \$100 - \$200 fine (amended in 2016)

> 10 grams but not more than 30 grams: Class B misdemeanor

> 30 grams but not more than 100 grams: Class A misdemeanor (but if any subsequent offense Class 4 felony)

> 100 grams but not more than 500 grams: Class 4 felony (but if any subsequent offense, Class 3 felony)

> 500 but not more than 2,000 grams: class 3 felony

> 2,000 but not more than 5,000 grams: class 2 felony

> 5,000 grams: Class 1 Felony



Section 5 of CCA: Manufacture, delivery, possession with intent to deliver of manufacture

2.5 or less: Class B misdemeanor

> 2.5 but not more than 10: Class A misdemeanor

> 10 but not more than 30: Class 4 felony

> 30 but not more than 500: Class 3 Felony fine not to exceed 50k may be imposed

> 500 but not more than 2000: Class 2 Felony fine not to exceed 100k

> 2,000 but not more than 5,000: Class 1 Felony fine not to exceed 150k

> 5000: Class X felony fine not to exceed 200k



Enhancement

A person over 18 who violates Section 5 of the Cannabis Control Act by delivering to person under 18 who is at least 3 years younger than the seller may be sentenced to term up to twice the max allowed by Section 5



Violent Crime Rights of Crime Victims and Witnesses Act

Felony with force or threat of force

Offense involving sexual exploitation, conduct or penetration

Child Pornography, Posting Identifying or Graphic Info on Pornography Site, Dissemination of Private Sexual Images without Consent

Domestic battery or stalking

Violation of OP, civil no contact order, or stalking no contact order

Misdemeanor resulting in death or great bodily harm to victim

Involuntary Manslaughter & Reckless Homicide, DUI, or violation of similar provision of local ordinance if resulted in personal injury or death

Automatic Expungement

Automatic Expungement

The Illinois State Police and all law enforcement agencies shall automatically expunge all arrests, charge not initiated by arrest, order of supervision, or order of qualified probation for Minor Cannabis Offenses IF:

- (1) One year or more has elapsed since the date of the arrest of interaction AND
- (2) No charges filed or charges filed and later dismissed, vacated or arrestee was acquitted


If can't verify 2 but 1 is met, automatically expunge records

Automatic Expungement Timeline

Records from 1/1/2013-12/31/2019 expunged prior to 1/1/2021

Records from 1/1/2000-12/31/2012 expunged prior to 1/1/2023

Records from before 1/1/2000 expunged prior to 1/1/2025




Pardons Authorizing Expungement

Step One: Illinois State Police Review

Illinois State Police shall identify records of one or more convictions for a Minor Cannabis Offense

By June 29, 2020, the Illinois State Police shall notify Prisoner Review Board of all such records




Step Two: Prisoner Review Board

PRB will notify State's Attorneys office in county of conviction of each record identified by State Police that is a Class 4 felony (Manufacture, delivery or possession with intent to deliver or manufacture 10-30 grams)

State's Attorney has an opportunity to object in writing within 60 days to the expungement on the basis that the record does not meet the legal requirements for eligibility under the statute.

- If an objection is received the PRB is authorized to conduct a non-public hearing

PRB will make confidential and privileged recommendation about whether to grant a pardon to the Governor



Step Three: If Pardon is Granted

Prisoner Review Board, through Attorney General, shall file a petition for expungement with the Chief Judge of the circuit where individual had been convicted

If pardon authorizing expungement is granted, an objection may not be filed

Within 90 days of the filing of such a petition, the court shall enter an order expunging

A copy of the order shall be provided to the individual's last known address



Motion to Vacate and Expunge

Motion to Vacate and Expunge

Not Automatic

An individual may file a motion to vacate and expunge a conviction for misdemeanor or Class 4 felony violation of Section 4 or 5 of Cannabis Control Act

Must be filed with the circuit court that holds the record

Can be filed after the completion of the sentence or condition imposed by the conviction

State's Attorney may object



State's Attorney



State's Attorney

Any State's Attorney may file a motion to vacate and expunge a conviction for a misdemeanor or Class 4 felony violation of Section 4 or Section 5 of Cannabis Control Act

Cook County State's Attorney and Rock Island County State's Attorney are partnering with a non-profit Code for America to expunge minor cannabis convictions



Pending Cases

If person arrested before effective date for an offense made eligible for expungement, the case is pending, and person has not been sentenced

Person may petition court for order to dismiss charges and expunge all official records

Individuals imprisoned solely based on a Minor Cannabis Offense shall be released from incarceration