

AN ACT concerning civil law.

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

Section 5. The Court of Claims Act is amended by changing Sections 8 and 11 as follows:

(705 ILCS 505/8) (from Ch. 37, par. 439.8)

Sec. 8. Court of Claims jurisdiction; deliberation periods. The court shall have exclusive jurisdiction to hear and determine the following matters:

(a) All claims against the State founded upon any law of the State of Illinois or upon any regulation adopted thereunder by an executive or administrative officer or agency; provided, however, the court shall not have jurisdiction (i) to hear or determine claims arising under the Workers' Compensation Act or the Workers' Occupational Diseases Act, or claims for expenses in civil litigation, or (ii) to review administrative decisions for which a statute provides that review shall be in the circuit or appellate court.

(b) All claims against the State founded upon any contract entered into with the State of Illinois.

(c) All claims against the State for time unjustly served in prisons of this State, in county jails, in

county juvenile detention facilities, or in Illinois Youth Centers, on parole or probation, or registered as a sex offender when the person unjustly convicted or adjudicated a delinquent imprisoned received a pardon from the Governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was convicted or adjudicated a delinquent imprisoned or he or she received a certificate of innocence from the Circuit Court as provided in Section 2-702 of the Code of Civil Procedure. For such claims, the amount of the award is at the discretion of the court; and provided, the court shall make an award of up to \$50,000 per calendar year, and prorated for any partial calendar year, during which the person was wrongfully incarcerated in a State prison, in a county jail, in a county juvenile detention facility, or in an Illinois Youth Center, and up to \$25,000 for each calendar year, and prorated for any partial calendar year, during which the person was wrongfully on parole or probation or required to register as a sex offender. Any time in custody that was served on a companion charge arising out of the same case shall be deducted from the total award. The court shall direct payment of awards under this subsection as follows:

(1) For awards of \$1,000,000 or less, the full amount is to be paid with funds from the State fiscal year in which the award was entered.

(2) For awards of more than \$1,000,000 but less than \$1,300,000, \$1,000,000 is to be paid from the State fiscal year in which the award was entered, and the remainder is to be paid in the next fiscal year thereafter.

(3) For awards of \$1,300,000 or more, \$1,000,000 is to be paid from the State fiscal year in which the award was entered, and the remainder is to be paid in equal installments over the next 3 fiscal years.

~~The , provided, the amount of the award is at the discretion of the court; and provided, the court shall make no award in excess of the following amounts: for imprisonment of 5 years or less, not more than \$85,350; for imprisonment of 14 years or less but over 5 years, not more than \$170,000; for imprisonment of over 14 years, not more than \$199,150; and provided further, the court shall fix attorney's fees not to exceed 25% of the award granted. On or after the effective date of this amendatory Act of the 95th General Assembly, the court shall annually adjust the maximum awards required authorized by this subsection (c) to reflect the increase, if any, in the Consumer Price Index For All Urban Consumers for the previous calendar year, as determined by the United States Department of Labor, except that no annual increment may exceed 5%. For the annual adjustments, if the Consumer Price Index decreases during a calendar year, there shall~~

be no adjustment for that calendar year. The transmission by the Prisoner Review Board or the clerk of the circuit court of the information described in Section 11(b) to the clerk of the Court of Claims is conclusive evidence of the validity of the claim. The court shall determine reasonable attorney's fees, costs, and expenses for the claimant's attorney not to exceed: (i) 25% of the award for claimants incarcerated 3 years or less; (ii) 15% of the award for claimants incarcerated more than 3 years but less than 10 years; and (iii) 10% of the award for claimants incarcerated 10 years or more. The claimant's attorney may not collect any fees, costs, and expenses in excess of the amounts awarded under this Section. The changes made by Public Act 95-970 ~~this amendatory Act of the 95th General Assembly~~ apply to all claims pending on or filed on or after September 22, 2008 (the effective date of Public Act 95-970). The changes made by this amendatory Act of the 104th General Assembly apply to all claims pending or filed on or after the effective date of this amendatory Act of the 104th General Assembly.

(d) All claims against the State for damages in cases sounding in tort, if a like cause of action would lie against a private person or corporation in a civil suit, and all like claims sounding in tort against the Medical Center Commission, the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois

University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, or the Board of Trustees of the Illinois Mathematics and Science Academy; provided, that an award for damages in a case sounding in tort, other than certain cases involving the operation of a State vehicle described in this paragraph, shall not exceed the sum of \$2,000,000 to or for the benefit of any claimant. The \$2,000,000 limit prescribed by this Section does not apply to an award of damages in any case sounding in tort arising out of the operation by a State employee of a vehicle owned, leased or controlled by the State. The defense that the State or the Medical Center Commission or the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of

Trustees of Western Illinois University, or the Board of Trustees of the Illinois Mathematics and Science Academy is not liable for the negligence of its officers, agents, and employees in the course of their employment is not applicable to the hearing and determination of such claims. The changes to this Section made by this amendatory Act of the 100th General Assembly apply only to claims filed on or after July 1, 2015.

The court shall annually adjust the maximum awards authorized by this subsection to reflect the increase, if any, in the Consumer Price Index For All Urban Consumers for the previous calendar year, as determined by the United States Department of Labor. The Comptroller shall make the new amount resulting from each annual adjustment available to the public via the Comptroller's official website by January 31 of every year.

(e) All claims for recoupment made by the State of Illinois against any claimant.

(f) All claims pursuant to the Line of Duty Compensation Act. A claim under that Act must be heard and determined within one year after the application for that claim is filed with the Court as provided in that Act.

(g) All claims filed pursuant to the Crime Victims Compensation Act.

(h) All claims pursuant to the Illinois National Guardsman's Compensation Act. A claim under that Act must

be heard and determined within one year after the application for that claim is filed with the Court as provided in that Act.

(i) All claims authorized by subsection (a) of Section 10-55 of the Illinois Administrative Procedure Act for the expenses incurred by a party in a contested case on the administrative level.

(Source: P.A. 100-1124, eff. 11-27-18.)

(705 ILCS 505/11) (from Ch. 37, par. 439.11)

Sec. 11. Filing claims.

(a) Except as otherwise provided in subsection (b) of this Section and subsection (4) of Section 24, the claimant shall in all cases set forth fully in his petition the claim, the action thereon, if any, on behalf of the State, what persons are owners thereof or interested therein, when and upon what consideration such persons became so interested; that no assignment or transfer of the claim or any part thereof or interest therein has been made, except as stated in the petition; that the claimant is justly entitled to the amount therein claimed from the State of Illinois, after allowing all just credits; and that claimant believes the facts stated in the petition to be true. The petition shall be verified, as to statements of facts, by the affidavit of the claimant, his agent, or attorney.

(b) Whenever a person has been convicted or adjudicated a

delinquent ~~served a term of imprisonment~~ and has received a pardon by the Governor stating that such pardon was issued on the ground of innocence of the crime for which he or she was convicted or adjudicated a delinquent imprisoned, the Prisoner Review Board shall transmit this information to the clerk of the Court of Claims, together with the claimant's current address. Whenever a person ~~has served a term of imprisonment and~~ has received a certificate of innocence from the Circuit Court as provided in Section 2-702 of the Code of Civil Procedure, the clerk of the issuing Circuit Court shall transmit this information to the clerk of the Court of Claims, together with the claimant's current address. The clerk of the Court of Claims shall immediately docket the case for consideration by the Court of Claims, and shall provide notice to the claimant of such docketing together with all hearing dates and applicable deadlines. The Court of Claims shall hear the case and render a decision within 90 days after its docketing.

(Source: P.A. 95-970, eff. 9-22-08; 96-328, eff. 8-11-09.)

Section 10. The Code of Civil Procedure is amended by changing Section 2-702 as follows:

(735 ILCS 5/2-702)

Sec. 2-702. Petition for a certificate of innocence that the petitioner was innocent of all offenses for which he or she

was incarcerated.

(a) The General Assembly finds and declares that innocent persons who have been wrongly convicted or adjudicated delinquent of crimes in Illinois ~~and subsequently imprisoned~~ have been frustrated in seeking legal redress due to a variety of substantive and technical obstacles in the law and that such persons should have an available avenue to obtain a finding of innocence so that they may obtain relief through a petition in the Court of Claims. The General Assembly further finds misleading the current legal nomenclature which compels an innocent person to seek a pardon for being wrongfully incarcerated. It is the intent of the General Assembly that the court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence submitted pursuant to this Section, shall, in the interest of justice, give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not caused by such persons or those acting on their behalf.

(b) Any person who was convicted or adjudicated a delinquent and subsequently served any part of a sentence of incarceration in a State prison, in a county jail, in a county juvenile detention facility, or in an Illinois Youth Center, on parole or probation, or registered as a sex offender ~~imprisoned~~ for one or more felonies by the State of Illinois which he or she did not commit may, under the conditions

hereinafter provided, file a petition for certificate of innocence in the circuit court of the county in which the person was convicted or adjudicated a delinquent. The petition shall request a certificate of innocence finding that the petitioner was innocent of one or more ~~all~~ offenses for which he or she was convicted or adjudicated a delinquent incarcerated.

(c) In order to present the claim for certificate of innocence of an unjust conviction or juvenile delinquency adjudication ~~and imprisonment~~, the petitioner must attach to his or her petition documentation demonstrating that:

(1) he or she has been convicted or adjudicated a delinquent of one or more felonies by the State of Illinois ~~and subsequently sentenced to a term of imprisonment~~, and has served all or any part of the sentence; and

(2) his or her judgment of conviction or delinquency adjudication was reversed or vacated, and the charge ~~indictment or information~~ dismissed or, if a new trial was ordered, either he or she was found not guilty at the new trial or he or she was not retried and the charge ~~indictment or information~~ dismissed; or the statute, or application thereof, on which the charge ~~indictment or information~~ was based violated the Constitution of the United States or the State of Illinois; and

(3) his or her claim is not time barred by the

provisions of subsection (i) of this Section.

(d) The petition shall state facts in sufficient detail to permit the court to find that the petitioner is likely to succeed at trial in proving that the petitioner is innocent of the alleged offenses for which he or she was convicted or adjudicated a delinquent ~~charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State of Illinois~~, and the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction or juvenile delinquency adjudication. The petition shall be verified by the petitioner.

(e) A copy of the petition shall be served on the Attorney General and the State's Attorney of the county where the conviction or juvenile delinquency adjudication was had. The Attorney General and the State's Attorney of the county where the conviction or juvenile delinquency adjudication was had shall have the right to intervene as parties.

(f) In any hearing seeking a certificate of innocence, the court may take judicial notice of prior sworn testimony or evidence admitted in the criminal or juvenile delinquency proceedings related to the convictions or adjudications which resulted in the alleged wrongful incarceration, if the petitioner was either represented by counsel at such prior proceedings or the right to counsel was knowingly waived.

(g) In order to obtain a certificate of innocence the petitioner must prove by a preponderance of evidence that:

(1) the petitioner was convicted or adjudicated a delinquent of one or more felonies by the State of Illinois and subsequently sentenced ~~to a term of imprisonment~~, and has served all or any part of the sentence;

(2) (A) the judgment of conviction or adjudication was reversed or vacated, and the charge ~~indictment or information~~ dismissed or, if a new trial was ordered, either the petitioner was found not guilty at the new trial or the petitioner was not retried and the charge ~~indictment or information~~ dismissed; or (B) the statute, or application thereof, on which the charge ~~indictment or information~~ was based violated the Constitution of the United States or the State of Illinois;

(3) the petitioner is innocent of one or more of the offenses for which he or she was convicted or adjudicated a delinquent or his or her acts or omissions for which he or she was convicted or adjudicated a delinquent ~~charged in the indictment or information or his or her acts or omissions charged in the indictment or information~~ did not constitute a felony or misdemeanor against the State; and

(4) the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction or juvenile delinquency adjudication.

(h) If the court finds that the petitioner is entitled to a judgment, it shall enter a certificate of innocence finding that the petitioner was innocent of one or more ~~all~~ offenses for which he or she was convicted or adjudicated a delinquent incarcerated. Upon entry of the certificate of innocence or pardon from the Governor stating that such pardon was issued on the ground of innocence of the crime for which he or she was convicted or adjudicated a delinquent imprisoned, (1) the clerk of the court shall transmit a copy of the certificate of innocence to the clerk of the Court of Claims, together with the claimant's current address; and (2) the court shall enter an order expunging the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court and the Illinois State Police be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant or respondent in a juvenile delinquency proceeding 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 or delinquency adjudication for the offense but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The court shall enter the expungement order regardless of whether the petitioner has prior criminal convictions or delinquency adjudications.

All records sealed by the Illinois State Police may be

disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, the court upon a later arrest for the same or similar offense, or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.

Upon entry of the order of expungement, the clerk of the circuit court shall promptly mail a copy of the order to the person whose records were expunged and sealed. The clerk shall post in the common areas of the courthouse a notice containing information about grants for exonerated persons and their dependents under Section 62 of the Higher Education Student Assistance Act, including the Internet address of the Illinois Student Assistance Commission. The Illinois Student Assistance Commission shall develop a uniform statewide notice and provide the format of the notice to each clerk.

(i) Any person seeking a certificate of innocence under this Section based on the dismissal of an indictment or information or acquittal that occurred before September 22, 2008 (the effective date of Public Act 95-970) ~~this amendatory Act of the 95th General Assembly~~ shall file his or her petition within 2 years after September 22, 2008 (the effective date of Public Act 95-970) ~~this amendatory Act of the 95th General Assembly~~. Any person seeking a certificate of innocence under this Section based on the dismissal of an indictment or

information or acquittal that occurred on or after September 22, 2008 (the effective date of Public Act 95-970) ~~this~~ ~~amendatory Act of the 95th General Assembly~~ shall file his or her petition within 2 years after the dismissal or acquittal. Any person seeking a certificate of innocence under this Section based on the dismissal of a juvenile delinquency petition or an acquittal on such petition that occurred before the effective date of this amendatory Act of the 104th General Assembly, including a petitioner whose petition was denied solely on the basis that this Section did not formerly apply to juvenile delinquency adjudications, shall file his or her petition within 4 years after the effective date of this amendatory Act of the 104th General Assembly. Any person seeking a certificate of innocence under this Section based on the dismissal of a juvenile delinquency petition or an acquittal on such petition that occurred on or after the effective date of this amendatory Act of the 104th General Assembly shall file his or her petition within 2 years after the dismissal or acquittal.

(j) The decision to grant or deny a certificate of innocence shall be binding only with respect to claims filed in the Court of Claims and shall not have a res judicata effect on any other proceedings.

(Source: P.A. 102-538, eff. 8-20-21; 103-1046, eff. 1-1-25.)

Section 99. Effective date. This Act takes effect upon becoming law.