

AN ACT concerning State government.

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

Section 5. The Department of Human Services (Mental Health and Developmental Disabilities) Law of the Civil Administrative Code of Illinois is amended by adding Section 1710-125 as follows:

(20 ILCS 1710/1710-125 new)

Sec. 1710-125. Re-entry services program. The Department of Human Services shall establish a re-entry services program to assist persons wrongfully imprisoned, as defined in Section 3-1-2 of the Unified Code of Corrections, in obtaining mental health services, including services for post-traumatic stress, at an agreed-upon mental health facility at no charge. The Department of Human Services shall promulgate rules, no later than July 1, 2011, establishing the eligibility of wrongfully imprisoned persons for the Department's re-entry services program.

Section 10. The Unified Code of Corrections is amended by changing Sections 3-1-2 and 3-14-1 as follows:

(730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)

Sec. 3-1-2. Definitions.

(a) "Chief Administrative Officer" means the person designated by the Director to exercise the powers and duties of the Department of Corrections in regard to committed persons within a correctional institution or facility, and includes the superintendent of any juvenile institution or facility.

(a-5) "Sex offense" for the purposes of paragraph (16) of subsection (a) of Section 3-3-7, paragraph (10) of subsection (a) of Section 5-6-3, and paragraph (18) of subsection (c) of Section 5-6-3.1 only means:

(i) A violation of any of the following Sections of the Criminal Code of 1961: 10-7 (aiding or abetting child abduction under Section 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 11-15.1 (soliciting for a juvenile prostitute), 11-17.1 (keeping a place of juvenile prostitution), 11-18.1 (patronizing a juvenile prostitute), 11-19.1 (juvenile pimping), 11-19.2 (exploitation of a child), 11-20.1 (child pornography), 12-14.1 (predatory criminal sexual assault of a child), or 12-33 (ritualized abuse of a child). An attempt to commit any of these offenses.

(ii) A violation of any of the following Sections of the Criminal Code of 1961: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and subsection (a) of

Section 12-15 (criminal sexual abuse). An attempt to commit any of these offenses.

(iii) A violation of any of the following Sections of the Criminal Code of 1961 when the defendant is not a parent of the victim:

- 10-1 (kidnapping),
- 10-2 (aggravated kidnapping),
- 10-3 (unlawful restraint),
- 10-3.1 (aggravated unlawful restraint).

An attempt to commit any of these offenses.

(iv) A violation of any former law of this State substantially equivalent to any offense listed in this subsection (a-5).

An offense violating federal law or the law of another state that is substantially equivalent to any offense listed in this subsection (a-5) shall constitute a sex offense for the purpose of this subsection (a-5). A finding or adjudication as a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act shall constitute an adjudication for a sex offense for the purposes of this subsection (a-5).

(b) "Commitment" means a judicially determined placement in the custody of the Department of Corrections on the basis of delinquency or conviction.

(c) "Committed Person" is a person committed to the Department, however a committed person shall not be considered

to be an employee of the Department of Corrections for any purpose, including eligibility for a pension, benefits, or any other compensation or rights or privileges which may be provided to employees of the Department.

(c-5) "Computer scrub software" means any third-party added software, designed to delete information from the computer unit, the hard drive, or other software, which would eliminate and prevent discovery of browser activity, including but not limited to Internet history, address bar or bars, cache or caches, and/or cookies, and which would over-write files in a way so as to make previous computer activity, including but not limited to website access, more difficult to discover.

(d) "Correctional Institution or Facility" means any building or part of a building where committed persons are kept in a secured manner.

(e) In the case of functions performed before the effective date of this amendatory Act of the 94th General Assembly, "Department" means the Department of Corrections of this State. In the case of functions performed on or after the effective date of this amendatory Act of the 94th General Assembly, "Department" has the meaning ascribed to it in subsection (f-5).

(f) In the case of functions performed before the effective date of this amendatory Act of the 94th General Assembly, "Director" means the Director of the Department of Corrections. In the case of functions performed on or after the effective

date of this amendatory Act of the 94th General Assembly, "Director" has the meaning ascribed to it in subsection (f-5).

(f-5) In the case of functions performed on or after the effective date of this amendatory Act of the 94th General Assembly, references to "Department" or "Director" refer to either the Department of Corrections or the Director of Corrections or to the Department of Juvenile Justice or the Director of Juvenile Justice unless the context is specific to the Department of Juvenile Justice or the Director of Juvenile Justice.

(g) "Discharge" means the final termination of a commitment to the Department of Corrections.

(h) "Discipline" means the rules and regulations for the maintenance of order and the protection of persons and property within the institutions and facilities of the Department and their enforcement.

(i) "Escape" means the intentional and unauthorized absence of a committed person from the custody of the Department.

(j) "Furlough" means an authorized leave of absence from the Department of Corrections for a designated purpose and period of time.

(k) "Parole" means the conditional and revocable release of a committed person under the supervision of a parole officer.

(l) "Prisoner Review Board" means the Board established in Section 3-3-1(a), independent of the Department, to review

rules and regulations with respect to good time credits, to hear charges brought by the Department against certain prisoners alleged to have violated Department rules with respect to good time credits, to set release dates for certain prisoners sentenced under the law in effect prior to the effective date of this Amendatory Act of 1977, to hear requests and make recommendations to the Governor with respect to pardon, reprieve or commutation, to set conditions for parole and mandatory supervised release and determine whether violations of those conditions justify revocation of parole or release, and to assume all other functions previously exercised by the Illinois Parole and Pardon Board.

(m) Whenever medical treatment, service, counseling, or care is referred to in this Unified Code of Corrections, such term may be construed by the Department or Court, within its discretion, to include treatment, service or counseling by a Christian Science practitioner or nursing care appropriate therewith whenever request therefor is made by a person subject to the provisions of this Act.

(n) "Victim" shall have the meaning ascribed to it in subsection (a) of Section 3 of the Bill of Rights for Victims and Witnesses of Violent Crime Act.

(o) "Wrongfully imprisoned person" means a person who has been discharged from a prison of this State and has received:

(1) 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 imprisoned; or

(2) a certificate of innocence from the Circuit Court as provided in Section 2-702 of the Code of Civil Procedure.

(Source: P.A. 96-362, eff. 1-1-10; 96-710, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)

Sec. 3-14-1. Release from the Institution.

(a) Upon release of a person on parole, mandatory release, final discharge or pardon the Department shall return all property held for him, provide him with suitable clothing and procure necessary transportation for him to his designated place of residence and employment. It may provide such person with a grant of money for travel and expenses which may be paid in installments. The amount of the money grant shall be determined by the Department.

(a-1) The Department shall, before a wrongfully imprisoned person, as defined in Section 3-1-2 of this Code, is discharged from the Department, provide him or her with any documents necessary after discharge, including an identification card under subsection (e) of this Section.

(a-2) The Department of Corrections may establish and maintain, in any institution it administers, revolving funds to be known as "Travel and Allowances Revolving Funds". These revolving funds shall be used for advancing travel and expense

allowances to committed, paroled, and discharged prisoners. The moneys paid into such revolving funds shall be from appropriations to the Department for Committed, Paroled, and Discharged Prisoners.

(b) (Blank).

(c) Except as otherwise provided in this Code, the Department shall establish procedures to provide written notification of any release of any person who has been convicted of a felony to the State's Attorney and sheriff of the county from which the offender was committed, and the State's Attorney and sheriff of the county into which the offender is to be paroled or released. Except as otherwise provided in this Code, the Department shall establish procedures to provide written notification to the proper law enforcement agency for any municipality of any release of any person who has been convicted of a felony if the arrest of the offender or the commission of the offense took place in the municipality, if the offender is to be paroled or released into the municipality, or if the offender resided in the municipality at the time of the commission of the offense. If a person convicted of a felony who is in the custody of the Department of Corrections or on parole or mandatory supervised release informs the Department that he or she has resided, resides, or will reside at an address that is a housing facility owned, managed, operated, or leased by a public housing agency, the Department must send written notification

of that information to the public housing agency that owns, manages, operates, or leases the housing facility. The written notification shall, when possible, be given at least 14 days before release of the person from custody, or as soon thereafter as possible.

(c-1) (Blank).

(c-5) If a person on parole or mandatory supervised release becomes a resident of a facility licensed or regulated by the Department of Public Health, the Illinois Department of Public Aid, or the Illinois Department of Human Services, the Department of Corrections shall provide copies of the following information to the appropriate licensing or regulating Department and the licensed or regulated facility where the person becomes a resident:

(1) The mittimus and any pre-sentence investigation reports.

(2) The social evaluation prepared pursuant to Section 3-8-2.

(3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2.

(4) Reports of disciplinary infractions and dispositions.

(5) Any parole plan, including orders issued by the Prisoner Review Board, and any violation reports and dispositions.

(6) The name and contact information for the assigned

parole agent and parole supervisor.

This information shall be provided within 3 days of the person becoming a resident of the facility.

(c-10) If a person on parole or mandatory supervised release becomes a resident of a facility licensed or regulated by the Department of Public Health, the Illinois Department of Public Aid, or the Illinois Department of Human Services, the Department of Corrections shall provide written notification of such residence to the following:

(1) The Prisoner Review Board.

(2) The chief of police and sheriff in the municipality and county in which the licensed facility is located.

The notification shall be provided within 3 days of the person becoming a resident of the facility.

(d) Upon the release of a committed person on parole, mandatory supervised release, final discharge or pardon, the Department shall provide such person with information concerning programs and services of the Illinois Department of Public Health to ascertain whether such person has been exposed to the human immunodeficiency virus (HIV) or any identified causative agent of Acquired Immunodeficiency Syndrome (AIDS).

(e) Upon the release of a committed person on parole, mandatory supervised release, final discharge, ~~or~~ pardon, or who has been wrongfully imprisoned, the Department shall provide the person who has met the criteria established by the Department with an identification card identifying the person

as being on parole, mandatory supervised release, final discharge, ~~or~~ pardon, or wrongfully imprisoned, as the case may be. The Department, in consultation with the Office of the Secretary of State, shall prescribe the form of the identification card, which may be similar to the form of the standard Illinois Identification Card. The Department shall inform the committed person that he or she may present the identification card to the Office of the Secretary of State upon application for a standard Illinois Identification Card in accordance with the Illinois Identification Card Act. The Department shall require the committed person to pay a \$1 fee for the identification card.

For purposes of a committed person receiving an identification card issued by the Department under this subsection, the Department shall establish criteria that the committed person must meet before the card is issued. It is the sole responsibility of the committed person requesting the identification card issued by the Department to meet the established criteria. The person's failure to meet the criteria is sufficient reason to deny the committed person the identification card. An identification card issued by the Department under this subsection shall be valid for a period of time not to exceed 30 calendar days from the date the card is issued. The Department shall not be held civilly or criminally liable to anyone because of any act of any person utilizing a card issued by the Department under this subsection.

The Department shall adopt rules governing the issuance of identification cards to committed persons being released on parole, mandatory supervised release, final discharge, or pardon.

(Source: P.A. 94-163, eff. 7-11-05.)

Section 15. 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 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 convicted and subsequently 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. The petition shall request a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated.

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

(1) he or she has been convicted 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 was reversed or vacated, and the 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 indictment or information dismissed; or the statute, or

application thereof, on which the 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 offenses 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. 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 was had. The Attorney General and the State's Attorney of the county where the conviction 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 proceedings related to the convictions 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 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 was reversed or vacated, and the 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 indictment or information dismissed; or (B) the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois;

(3) the petitioner is innocent of the offenses 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.

(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 all offenses for which he or she was 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 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 or sealing 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 Department of 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 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 but the order shall not affect any index issued by the circuit court clerk before the entry of the order.

(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 the effective date of this amendatory Act of the 95th General Assembly shall file his or her petition within 2 years after the effective date of 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 the effective date of this amendatory Act of the 95th General Assembly shall file his or her petition within 2 years after the dismissal.

(j) The decision to grant or deny a certificate of

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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. 95-970, eff. 9-22-08.)

Section 99. Effective date. This Act takes effect July 1, 2011.