

1 AN ACT concerning civil law.

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

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

6 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

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

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

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

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

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

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

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

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

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

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

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

1 University, the Board of Trustees of Chicago State
2 University, the Board of Trustees of Eastern Illinois
3 University, the Board of Trustees of Governors State
4 University, the Board of Trustees of Illinois State
5 University, the Board of Trustees of Northeastern Illinois
6 University, the Board of Trustees of Northern Illinois
7 University, the Board of Trustees of Western Illinois
8 University, or the Board of Trustees of the Illinois
9 Mathematics and Science Academy; provided, that an award
10 for damages in a case sounding in tort, other than certain
11 cases involving the operation of a State vehicle described
12 in this paragraph, shall not exceed the sum of \$2,000,000
13 to or for the benefit of any claimant. The \$2,000,000
14 limit prescribed by this Section does not apply to an
15 award of damages in any case sounding in tort arising out
16 of the operation by a State employee of a vehicle owned,
17 leased or controlled by the State. The defense that the
18 State or the Medical Center Commission or the Board of
19 Trustees of the University of Illinois, the Board of
20 Trustees of Southern Illinois University, the Board of
21 Trustees of Chicago State University, the Board of
22 Trustees of Eastern Illinois University, the Board of
23 Trustees of Governors State University, the Board of
24 Trustees of Illinois State University, the Board of
25 Trustees of Northeastern Illinois University, the Board of
26 Trustees of Northern Illinois University, the Board of

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

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

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

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

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

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

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

4 (i) All claims authorized by subsection (a) of Section
5 10-55 of the Illinois Administrative Procedure Act for the
6 expenses incurred by a party in a contested case on the
7 administrative level.

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

9 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

10 Sec. 11. Filing claims.

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

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

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

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

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

22 (735 ILCS 5/2-702)

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

1 was incarcerated.

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

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

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

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

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

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

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

1 provisions of subsection (i) of this Section.

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

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

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

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

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

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

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

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

1 (h) If the court finds that the petitioner is entitled to a
2 judgment, it shall enter a certificate of innocence finding
3 that the petitioner was innocent of one or more ~~all~~ offenses
4 for which he or she was convicted or adjudicated a delinquent
5 ~~incarcerated~~. Upon entry of the certificate of innocence or
6 pardon from the Governor stating that such pardon was issued
7 on the ground of innocence of the crime for which he or she was
8 convicted or adjudicated a delinquent ~~imprisoned~~, (1) the
9 clerk of the court shall transmit a copy of the certificate of
10 innocence to the clerk of the Court of Claims, together with
11 the claimant's current address; and (2) the court shall enter
12 an order expunging the record of arrest from the official
13 records of the arresting authority and order that the records
14 of the clerk of the circuit court and the Illinois State Police
15 be sealed until further order of the court upon good cause
16 shown or as otherwise provided herein, and the name of the
17 defendant or respondent in a juvenile delinquency proceeding
18 obliterated from the official index requested to be kept by
19 the circuit court clerk under Section 16 of the Clerks of
20 Courts Act in connection with the arrest and conviction or
21 delinquency adjudication for the offense but the order shall
22 not affect any index issued by the circuit court clerk before
23 the entry of the order. The court shall enter the expungement
24 order regardless of whether the petitioner has prior criminal
25 convictions or delinquency adjudications.

26 All records sealed by the Illinois State Police may be

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

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

18 (i) Any person seeking a certificate of innocence under
19 this Section based on the dismissal of an indictment or
20 information or acquittal that occurred before September 22,
21 2008 (the effective date of Public Act 95-970) ~~this amendatory~~
22 ~~Act of the 95th General Assembly~~ shall file his or her petition
23 within 2 years after September 22, 2008 (the effective date of
24 Public Act 95-970) ~~this amendatory Act of the 95th General~~
25 ~~Assembly~~. Any person seeking a certificate of innocence under
26 this Section based on the dismissal of an indictment or

1 information or acquittal that occurred on or after September
2 22, 2008 (the effective date of Public Act 95-970) ~~this~~
3 ~~amendatory Act of the 95th General Assembly~~ shall file his or
4 her petition within 2 years after the dismissal or acquittal.
5 Any person seeking a certificate of innocence under this
6 Section based on the dismissal of a juvenile delinquency
7 petition or an acquittal on such petition that occurred before
8 the effective date of this amendatory Act of the 104th General
9 Assembly, including a petitioner whose petition was denied
10 solely on the basis that this Section did not formerly apply to
11 juvenile delinquency adjudications, shall file his or her
12 petition within 4 years after the effective date of this
13 amendatory Act of the 104th General Assembly. Any person
14 seeking a certificate of innocence under this Section based on
15 the dismissal of a juvenile delinquency petition or an
16 acquittal on such petition that occurred on or after the
17 effective date of this amendatory Act of the 104th General
18 Assembly shall file his or her petition within 2 years after
19 the dismissal or acquittal.

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

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

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