

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 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 court shall make an award
11 of \$50,000 per year, and prorated for any partial year,
12 during which the person was wrongfully incarcerated in a
13 State prison, in a county jail, in a county juvenile
14 detention facility, or in an Illinois Youth Center,
15 including the time the person was incarcerated awaiting
16 trial, and \$25,000 for each year, and prorated for any
17 partial year, during which the person was wrongfully on
18 parole or probation or required to register as a sex
19 offender. The court shall make an additional award of
20 reasonable attorney's fees, costs, and expenses in an
21 amount determined by the circuit court after awarding a
22 certificate of innocence under Section 2-702 of the Code
23 of Civil Procedure. The ~~; provided, the amount of the~~
24 ~~award is at the discretion of the court; and provided, the~~
25 ~~court shall make no award in excess of the following~~
26 ~~amounts: for imprisonment of 5 years or less, not more~~

1 ~~than \$85,350; for imprisonment of 14 years or less but~~
2 ~~over 5 years, not more than \$170,000; for imprisonment of~~
3 ~~over 14 years, not more than \$199,150; and provided~~
4 ~~further, the court shall fix attorney's fees not to exceed~~
5 ~~25% of the award granted. On or after the effective date of~~
6 ~~this amendatory Act of the 95th General Assembly, the~~
7 court shall annually adjust the ~~maximum~~ awards required
8 ~~authorized~~ by this subsection (c) to reflect the increase,
9 if any, in the Consumer Price Index For All Urban
10 Consumers for the previous calendar year, as determined by
11 the United States Department of Labor, except that no
12 annual increment may exceed 5%. For the annual
13 adjustments, if the Consumer Price Index decreases during
14 a calendar year, there shall be no adjustment for that
15 calendar year. The transmission by the Prisoner Review
16 Board or the clerk of the circuit court of the information
17 described in Section 11(b) to the clerk of the Court of
18 Claims is conclusive evidence of the validity of the
19 claim. The changes made by Public Act 95-970 ~~this~~
20 ~~amendatory Act of the 95th General Assembly~~ apply to all
21 claims pending on or filed on or after September 22, 2008
22 (the effective date of Public Act 95-970). The changes
23 made by this amendatory Act of the 104th General Assembly
24 apply to all claims pending or filed on or after the
25 effective date of this amendatory Act of the 104th General
26 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

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

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

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

25 (f) All claims pursuant to the Line of Duty
26 Compensation Act. A claim under that Act must be heard and

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

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

5 (h) All claims pursuant to the Illinois National
6 Guardsman's Compensation Act. A claim under that Act must
7 be heard and determined within one year after the
8 application for that claim is filed with the Court as
9 provided in that Act.

10 (i) All claims authorized by subsection (a) of Section
11 10-55 of the Illinois Administrative Procedure Act for the
12 expenses incurred by a party in a contested case on the
13 administrative level.

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

15 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

16 Sec. 11. Filing claims.

17 (a) Except as otherwise provided in subsection (b) of this
18 Section and subsection (4) of Section 24, the claimant shall
19 in all cases set forth fully in his petition the claim, the
20 action thereon, if any, on behalf of the State, what persons
21 are owners thereof or interested therein, when and upon what
22 consideration such persons became so interested; that no
23 assignment or transfer of the claim or any part thereof or
24 interest therein has been made, except as stated in the
25 petition; that the claimant is justly entitled to the amount

1 therein claimed from the State of Illinois, after allowing all
2 just credits; and that claimant believes the facts stated in
3 the petition to be true. The petition shall be verified, as to
4 statements of facts, by the affidavit of the claimant, his
5 agent, or attorney.

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

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

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

3 (735 ILCS 5/2-702)

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

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

25 (b) Any person who was convicted or adjudicated a

1 delinquent and subsequently served any part of a sentence of
2 incarceration in a State prison, in a county jail, in a county
3 juvenile detention facility, or in an Illinois Youth Center,
4 on parole or probation, or registered as a sex offender
5 ~~imprisoned~~ for one or more felonies by the State of Illinois
6 which he or she did not commit may, under the conditions
7 hereinafter provided, file a petition for certificate of
8 innocence in the circuit court of the county in which the
9 person was convicted or adjudicated a delinquent. The petition
10 shall request a certificate of innocence finding that the
11 petitioner was innocent of one or more ~~all~~ offenses for which
12 he or she was convicted or adjudicated a delinquent
13 ~~incarcerated~~.

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

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

23 (2) his or her judgment of conviction or delinquency
24 adjudication was reversed or vacated, and the charge
25 ~~indictment or information~~ dismissed or, if a new trial was
26 ordered, either he or she was found not guilty at the new

1 trial or he or she was not retried and the charge
2 ~~indictment or information~~ dismissed; or the statute, or
3 application thereof, on which the charge ~~indictment or~~
4 ~~information~~ was based violated the Constitution of the
5 United States or the State of Illinois; and

6 (3) his or her claim is not time barred by the
7 provisions of subsection (i) of this Section.

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

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

26 (f) In any hearing seeking a certificate of innocence, the

1 court may take judicial notice of prior sworn testimony or
2 evidence admitted in the criminal or juvenile delinquency
3 proceedings related to the convictions or adjudications which
4 resulted in the alleged wrongful incarceration, if the
5 petitioner was either represented by counsel at such prior
6 proceedings or the right to counsel was knowingly waived.

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

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

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

23 (3) the petitioner is innocent of one or more of the
24 offenses for which he or she was convicted or adjudicated
25 a delinquent or his or her acts or omissions for which he
26 or she was convicted or adjudicated a delinquent ~~charged~~

1 ~~in the indictment or information or his or her acts or~~
2 ~~omissions charged in the indictment or information~~ did not
3 constitute a felony or misdemeanor against the State; and

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

7 (h) If the court finds that the petitioner is entitled to a
8 judgment, it shall enter a certificate of innocence finding
9 that the petitioner was innocent of one or more ~~all~~ offenses
10 for which he or she was convicted or adjudicated a delinquent.
11 The court shall also make a determination, subject to proof by
12 the claimant, of the reasonable attorney's fees, costs, and
13 expenses incurred by the claimant in connection with obtaining
14 the certificate of innocence under this Section ~~incarcerated~~.

15 Upon entry of the certificate of innocence or pardon from the
16 Governor stating that such pardon was issued on the ground of
17 innocence of the crime for which he or she was convicted or
18 adjudicated a delinquent ~~imprisoned~~, (1) the clerk of the
19 court shall transmit a copy of the certificate of innocence to
20 the clerk of the Court of Claims, together with the claimant's
21 current address; and (2) the court shall enter an order
22 expunging the record of arrest from the official records of
23 the arresting authority and order that the records of the
24 clerk of the circuit court and the Illinois State Police be
25 sealed until further order of the court upon good cause shown
26 or as otherwise provided herein, and the name of the defendant

1 or respondent in a juvenile delinquency proceeding obliterated
2 from the official index requested to be kept by the circuit
3 court clerk under Section 16 of the Clerks of Courts Act in
4 connection with the arrest and conviction or delinquency
5 adjudication for the offense but the order shall not affect
6 any index issued by the circuit court clerk before the entry of
7 the order. The court shall enter the expungement order
8 regardless of whether the petitioner has prior criminal
9 convictions or delinquency adjudications.

10 All records sealed by the Illinois State Police may be
11 disseminated by the Department only as required by law or to
12 the arresting authority, the State's Attorney, the court upon
13 a later arrest for the same or similar offense, or for the
14 purpose of sentencing for any subsequent felony. Upon
15 conviction for any subsequent offense, the Department of
16 Corrections shall have access to all sealed records of the
17 Department pertaining to that individual.

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

1 provide the format of the notice to each clerk.

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

1 effective date of this amendatory Act of the 104th General
2 Assembly shall file his or her petition within 2 years after
3 the dismissal or acquittal.

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

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

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