



Rep. Kelly M. Cassidy

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1 AMENDMENT TO HOUSE BILL 4847

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4847 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by  
5 changing Sections 5-2 and 7-11 as follows:

6 (720 ILCS 5/5-2) (from Ch. 38, par. 5-2)

7 Sec. 5-2. When accountability exists. A person is legally  
8 accountable for the conduct of another when:

9 (a) having a mental state described by the statute  
10 defining the offense, he or she causes another to perform  
11 the conduct, and the other person in fact or by reason of  
12 legal incapacity lacks such a mental state;

13 (b) the statute defining the offense makes him or her  
14 so accountable; or

15 (c) either before or during the commission of an  
16 offense, and with the intent to promote or facilitate that

1 commission, he or she solicits, aids, abets, agrees, or  
2 attempts to aid that other person in the planning or  
3 commission of the offense.

4 When 2 or more persons engage in a common criminal design  
5 or agreement, any acts in the furtherance of that common  
6 design committed by one party are considered to be the acts of  
7 all parties to the common design or agreement and all are  
8 equally responsible for the consequences of those further  
9 acts. Mere presence at the scene of a crime does not render a  
10 person accountable for an offense; a person's presence at the  
11 scene of a crime, however, may be considered with other  
12 circumstances by the trier of fact when determining  
13 accountability.

14 A person is not so accountable, however, unless the  
15 statute defining the offense provides otherwise, if:

16 (1) he or she is a victim of the offense committed;

17 (2) the offense is so defined that his or her conduct  
18 was inevitably incident to its commission; ~~or~~

19 (3) before the commission of the offense, he or she  
20 terminates his or her effort to promote or facilitate that  
21 commission and does one of the following: (i) wholly  
22 deprives his or her prior efforts of effectiveness in that  
23 commission, (ii) gives timely warning to the proper law  
24 enforcement authorities, or (iii) otherwise makes proper  
25 effort to prevent the commission of the offense; or

26 (4) he or she was subjected to specific and credible

1        coercion, compulsion, or duress, including coercion,  
2        compulsion, or duress related to domestic abuse as defined  
3        in Section 103 of the Illinois Domestic Violence Act of  
4        1986.

5        (Source: P.A. 96-710, eff. 1-1-10.)

6            (720 ILCS 5/7-11) (from Ch. 38, par. 7-11)

7            Sec. 7-11. Compulsion.

8            (a) A person is not guilty of an offense, ~~other than an~~  
9        ~~offense punishable with death,~~ by reason of conduct that he or  
10       she performs under the compulsion of threat or menace of the  
11       imminent infliction of death or great bodily harm, if he or she  
12       reasonably believes death or great bodily harm will be  
13       inflicted upon him or her, or upon his or her spouse or child,  
14       if he or she does not perform that conduct.

15           (b) A married woman is not entitled, by reason of the  
16       presence of her husband, to any presumption of compulsion or  
17       to any defense of compulsion, except that stated in subsection  
18       (a).

19        (Source: P.A. 96-710, eff. 1-1-10.)

20           Section 10. The Code of Civil Procedure is amended by  
21       changing Section 2-1401 as follows:

22           (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

23           Sec. 2-1401. Relief from judgments.

1           (a) Relief from final orders and judgments, after 30 days  
2 from the entry thereof, may be had upon petition as provided in  
3 this Section. Writs of error coram nobis and coram vobis,  
4 bills of review, and bills in the nature of bills of review are  
5 abolished. All relief heretofore obtainable and the grounds  
6 for such relief heretofore available, whether by any of the  
7 foregoing remedies or otherwise, shall be available in every  
8 case, by proceedings hereunder, regardless of the nature of  
9 the order or judgment from which relief is sought or of the  
10 proceedings in which it was entered. Except as provided in the  
11 Illinois Parentage Act of 2015, there shall be no distinction  
12 between actions and other proceedings, statutory or otherwise,  
13 as to availability of relief, grounds for relief, or the  
14 relief obtainable.

15           (b) The petition must be filed in the same proceeding in  
16 which the order or judgment was entered but is not a  
17 continuation thereof. The petition must be supported by an  
18 affidavit or other appropriate showing as to matters not of  
19 record. A petition to reopen a foreclosure proceeding must  
20 include as parties to the petition, but is not limited to, all  
21 parties in the original action in addition to the current  
22 record title holders of the property, current occupants, and  
23 any individual or entity that had a recorded interest in the  
24 property before the filing of the petition. All parties to the  
25 petition shall be notified as provided by rule.

26           (b-5) A movant may present a meritorious claim under this

1 Section if the allegations in the petition establish each of  
2 the following by a preponderance of the evidence:

3 (1) the movant was convicted of a forcible felony;

4 (2) the movant's participation in the offense was  
5 related to experiencing or the effects of domestic  
6 violence or gender-based violence ~~him or her previously~~  
7 ~~having been a victim of domestic violence~~ as perpetrated  
8 by an intimate partner;

9 (3) no substantial evidence or incomplete evidence of  
10 domestic violence or gender-based violence against the  
11 movant was presented at the movant's sentencing hearing;

12 (4) (blank) ~~the movant was unaware of the mitigating~~  
13 ~~nature of the evidence of the domestic violence at the~~  
14 ~~time of sentencing and could not have learned of its~~  
15 ~~significance sooner through diligence;~~ and

16 (5) the ~~new~~ evidence of domestic violence or  
17 gender-based violence against the movant is material and  
18 noncumulative to other evidence offered at the sentencing  
19 hearing or previous hearing under this Section, and is of  
20 such a conclusive character that it would likely change  
21 the sentence imposed by the original trial court.

22 Nothing in this subsection (b-5) shall prevent a movant  
23 from applying for any other relief under this Section or any  
24 other law otherwise available to him or her.

25 As used in this subsection (b-5):

26 "Domestic violence" means abuse as defined in Section

1 103 of the Illinois Domestic Violence Act of 1986.

2 "Forcible felony" has the meaning ascribed to the term  
3 in Section 2-8 of the Criminal Code of 2012.

4 "Gender-based violence" means the perpetration of  
5 serious harm as defined in Section 10-9 of the Criminal  
6 Code of 2012.

7 "Intimate partner" means a spouse or former spouse,  
8 persons who have or allegedly have had a child in common,  
9 or persons who have or have had a dating or engagement  
10 relationship.

11 (b-10) A movant may present a meritorious claim under this  
12 Section if the allegations in the petition establish each of  
13 the following by a preponderance of the evidence:

14 (A) she was convicted of a forcible felony;

15 (B) her participation in the offense was a direct  
16 result of her suffering from post-partum depression or  
17 post-partum psychosis;

18 (C) no evidence of post-partum depression or  
19 post-partum psychosis was presented by a qualified medical  
20 person at trial or sentencing, or both;

21 (D) she was unaware of the mitigating nature of the  
22 evidence or, if aware, was at the time unable to present  
23 this defense due to suffering from post-partum depression  
24 or post-partum psychosis, or, at the time of trial or  
25 sentencing, neither was a recognized mental illness and as  
26 such, she was unable to receive proper treatment; and

1 (E) evidence of post-partum depression or post-partum  
2 psychosis as suffered by the person is material and  
3 noncumulative to other evidence offered at the time of  
4 trial or sentencing, and it is of such a conclusive  
5 character that it would likely change the sentence imposed  
6 by the original court.

7 Nothing in this subsection (b-10) prevents a person from  
8 applying for any other relief under this Article or any other  
9 law otherwise available to her.

10 As used in this subsection (b-10):

11 "Post-partum depression" means a mood disorder which  
12 strikes many women during and after pregnancy and usually  
13 occurs during pregnancy and up to 12 months after  
14 delivery. This depression can include anxiety disorders.

15 "Post-partum psychosis" means an extreme form of  
16 post-partum depression which can occur during pregnancy  
17 and up to 12 months after delivery. This can include  
18 losing touch with reality, distorted thinking, delusions,  
19 auditory and visual hallucinations, paranoia,  
20 hyperactivity and rapid speech, or mania.

21 (c) Except as provided in Section 20b of the Adoption Act  
22 and Section 2-32 of the Juvenile Court Act of 1987, ~~or~~ in a  
23 petition based upon Section 116-3 of the Code of Criminal  
24 Procedure of 1963 or subsection (b-5) or (b-10) of this  
25 Section, or in a motion to vacate and expunge convictions  
26 under the Cannabis Control Act as provided by subsection (i)

1 of Section 5.2 of the Criminal Identification Act, the  
2 petition must be filed not later than 2 years after the entry  
3 of the order or judgment. Time during which the person seeking  
4 relief is under legal disability or duress or the ground for  
5 relief is fraudulently concealed shall be excluded in  
6 computing the period of 2 years.

7 (c-5) Any individual may at any time file a petition and  
8 institute proceedings under this Section, if his or her final  
9 order or judgment, which was entered based on a plea of guilty  
10 or nolo contendere, has potential consequences under federal  
11 immigration law.

12 (d) The filing of a petition under this Section does not  
13 affect the order or judgment, or suspend its operation.

14 (e) Unless lack of jurisdiction affirmatively appears from  
15 the record proper, the vacation or modification of an order or  
16 judgment pursuant to the provisions of this Section does not  
17 affect the right, title, or interest in or to any real or  
18 personal property of any person, not a party to the original  
19 action, acquired for value after the entry of the order or  
20 judgment but before the filing of the petition, nor affect any  
21 right of any person not a party to the original action under  
22 any certificate of sale issued before the filing of the  
23 petition, pursuant to a sale based on the order or judgment.  
24 When a petition is filed pursuant to this Section to reopen a  
25 foreclosure proceeding, notwithstanding the provisions of  
26 Section 15-1701 of this Code, the purchaser or successor



1 purchaser of real property subject to a foreclosure sale who  
2 was not a party to the mortgage foreclosure proceedings is  
3 entitled to remain in possession of the property until the  
4 foreclosure action is defeated or the previously foreclosed  
5 defendant redeems from the foreclosure sale if the purchaser  
6 has been in possession of the property for more than 6 months.

7 (f) Nothing contained in this Section affects any existing  
8 right to relief from a void order or judgment, or to employ any  
9 existing method to procure that relief.

10 (Source: P.A. 101-27, eff. 6-25-19; 101-411, eff. 8-16-19;  
11 102-639, eff. 8-27-21; revised 11-24-21.)".