

102ND GENERAL ASSEMBLY**State of Illinois****2021 and 2022****SB3823**

Introduced 1/21/2022, by Sen. Cristina H. Pacione-Zayas

SYNOPSIS AS INTRODUCED:

New Act

Provides that the Act may be referred to as the Second Chance State Education Act. Contains declarations and findings. Creates the Second Chance Seat in Every Class Act. Provides that each institution of higher education shall reserve at least one enrollment in each class for a returning resident (a person who is a resident of and domiciled in Illinois, has graduated from high school or the equivalent, has been convicted of a felony by a court sitting in Illinois, was sentenced to incarceration pursuant to that conviction, and is not currently incarcerated) and at least one enrollment in each online class for an incarcerated individual. Provides for computer equipment, Internet connections, books, and supplies for enrolled incarcerated individuals. Creates the Incarcerated Individuals and Returning Residents Educational Supply Fund as a fund of the Department of Returning Resident Affairs. Provides that moneys in the Fund shall be used exclusively to pay for costs that incarcerated individuals and returning residents incur for books or other supplies needed to take classes under the Act. Provides that any concession or similar agreement between a public institution of higher education and the operator of a bookstore or similar operation at that public institution of higher education shall include a provision requiring the operator of the bookstore or similar operation to pay 1% of its gross revenues from the operation of that bookstore or similar operation to the Fund. Creates the Second Chance State College Admissions Act. Provides that no institution of higher education shall consider criminal history information when making any decision about an applicant or student, inquire about or consider criminal history information at any time during the admission decision-making process, or place an applicant or student on probationary or similar status based upon criminal history information, with specified exceptions. Contains provisions concerning compliance, administration, enforcement, duties of an Illinois Higher Education in Prison Task Force, educational, licensing, employment barriers, severability, and other matters. Effective immediately, but certain provisions do not take effect at all unless another Act becomes law.

LRB102 22629 CMG 31772 b

1 AN ACT concerning education.

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

4 Article 1

5 Section 1-1. References to Act. This Act may be referred
6 to as the Second Chance State Education Act.

7 Section 1-5. Legislative declarations and findings. The
8 General Assembly finds and declares that:

9 (1) The price exacted by the approximately 41%
10 recidivism rate in Illinois is intolerably high. Each
11 recidivism event costs Illinois over \$151,000. The cost of
12 recidivism in terms of violence to Illinois communities is
13 higher, with 39% of returning residents being re-arrested
14 for a violent crime within 9 years of release and 83% of
15 homicide offenders in Illinois having arrest or conviction
16 records.

17 (2) The General Assembly has previously found that
18 "[t]he benefits of higher education programming...to
19 [incarcerated individuals] and to society are
20 well-documented".

21 (3) That documentation includes Northwestern
22 University's reporting that:

1 "[T]here is a 43% reduction in recidivism rates
2 for those [incarcerated individuals] who participate
3 in prison education programs. Indeed, the higher the
4 degree, the lower the recidivism rate is: 14% for
5 those who obtain an associate degree, 5.6% for those
6 who obtain a bachelor's degree, and 0% for those who
7 obtain a master's degree."

8 (4) Further documentation indicates that the benefits
9 of providing educational opportunities to incarcerated
10 individuals and returning residents include reductions in
11 prison disciplinary infractions and increased employment
12 opportunities for returning residents. Most significantly,
13 providing educational opportunities to incarcerated
14 individuals and returning residents creates the type of
15 positive benefits for their children that breaks the
16 intergenerational cycle of incarceration.

17 (5) The General Assembly therefore finds that it is in
18 the best interests of the health, welfare, and prosperity
19 of all Illinois citizens for Illinois to provide and
20 require the provision of the educational opportunities set
21 forth in this Act.

22 Article 5

23 Section 5-1. Short title. This Article may be cited as the
24 Second Chance Seat in Every Class Act. As used in this Article,

1 "this Act" means this Article.

2 Section 5-5. Definitions. As used in this Act:

3 "Degree granting institution" has the meaning set forth in
4 Section 2 of the Academic Degree Act.

5 "Department" means the Department of Returning Resident
6 Affairs.

7 "Incarcerated individual" means any person who has
8 graduated from high school or the equivalent, has been
9 convicted of a felony and as a result of that conviction is
10 incarcerated in a facility that is located in the State of
11 Illinois and is operated by or under contract with: (1) the
12 Illinois Department of Corrections; or (2) the United States
13 Department of Justice.

14 "Institution of higher education" means any publicly or
15 privately operated university, college, community college,
16 business, technical, or vocational school, or other
17 educational institution offering degrees or instruction beyond
18 the secondary school level, including, without limitation, a
19 degree granting institution, post-secondary educational
20 institution, public institution of higher education, or any
21 institution that operates pursuant to authority provided to it
22 by the Board of Higher Education or the Board of Higher
23 Education Act.

24 "Post-secondary educational institution" has the meaning
25 set forth in Section 1 of the Private College Act.

1 "Public institutions of higher education" has the meaning
2 set forth in Section 1 of the Board of Higher Education Act.

3 "Returning resident" means a person who: (1) is a resident
4 of and domiciled in Illinois; (2) has graduated from high
5 school or the equivalent; (3) has been convicted of a felony by
6 a court sitting in the State of Illinois; (4) was sentenced to
7 incarceration pursuant to that conviction; and (5) is not
8 currently incarcerated.

9 Section 5-10. Returning resident enrollment rights. As a
10 condition of its authority to operate in Illinois, each
11 institution of higher education shall reserve at least one
12 enrollment in each class offered by that institution of higher
13 education for a returning resident, subject to the following
14 provisions:

15 (1) the returning resident shall not be required to
16 have taken an entrance examination or been admitted as a
17 student of the institution of higher education where the
18 returning resident is taking the class;

19 (2) the returning resident shall not be subject to any
20 residency requirements otherwise applicable to enrollment
21 in a class at the institution of higher education;
22 provided that the returning resident shall be a resident
23 of and domiciled in Illinois;

24 (3) except as provided herein, the returning resident
25 must fulfill the other academic prerequisites for the

1 class that apply to other students desiring to take the
2 class;

3 (4) the returning resident shall have the option to
4 take the class for credit or to audit the class and shall
5 be entitled to be awarded degrees, certifications, or
6 similar awards upon the returning resident's satisfactory
7 completion of the requirements for such degrees,
8 certifications, or similar awards;

9 (5) except as otherwise provided herein, the returning
10 resident shall be subject to the course requirements
11 applicable to all other students in a class the returning
12 resident takes pursuant to this Act;

13 (6) the returning resident shall not be required to
14 pay any tuition, fee, or other charge for any class the
15 returning resident takes pursuant to this Act.

16 Section 5-15. Incarcerated individual enrollment rights.

17 (a) As a condition of its authority to operate in
18 Illinois, each institution of higher education shall reserve
19 at least one enrollment in each online class offered by that
20 institution of higher education for an incarcerated
21 individual, subject to the following provisions:

22 (1) the incarcerated individual shall not be required
23 to have taken an entrance examination or been admitted as
24 a student of the institution of higher education where the
25 incarcerated individual is taking the class;

1 (2) the incarcerated individual shall not be subject
2 to any residency requirements otherwise applicable to
3 enrollment in a class at the institution of higher
4 education;

5 (3) except as otherwise provided herein, the
6 incarcerated individual has fulfilled the other academic
7 prerequisites for the class that apply to other students
8 desiring to take the class;

9 (4) the incarcerated individual shall have the option
10 to take the class for credit or to audit it and shall be
11 entitled to be awarded degrees, certifications, or similar
12 awards upon the incarcerated individual's satisfactory
13 completion of the requirements for such degrees,
14 certifications, or similar awards;

15 (5) except as otherwise provided herein, the
16 incarcerated individual shall be subject to the
17 requirements applicable to all other students in a class
18 the incarcerated individual takes pursuant to this Act;

19 (6) the incarcerated individual shall not be required
20 to pay any tuition, fee, or other charge for any class the
21 incarcerated individual takes pursuant to this Act; and

22 (7) an institution of higher education shall not be
23 required to enroll an incarcerated individual in those
24 laboratory and similar classes that the incarcerated
25 individual could not complete due to the limitations
26 resulting from the incarcerated individual's confinement.

1 (b) Within one year after the effective date of this Act,
2 the Department of Corrections shall provide each incarcerated
3 individual who is incarcerated in a facility operated by or
4 under contract with the Department of Corrections and who
5 wishes to enroll in one or more classes pursuant to this
6 Section with:

7 (1) the incarcerated individual's own individual,
8 personal computer equipment, an Internet connection and
9 all other technology that is necessary for such enrollment
10 and that the incarcerated individual can access at any
11 time, at no cost to the incarcerated individual;

12 (2) the ability to obtain books or other supplies that
13 the incarcerated individual reasonably needs to
14 successfully complete such class or classes, subject to
15 reasonable safety and security considerations. The
16 Department of Corrections shall not charge such
17 incarcerated individual more for such books or supplies
18 than the actual cost of those books and supplies, without
19 any addition for administrative expenses the Department of
20 Corrections incurs relative to the provision of those
21 books and supplies.

22 Section 5-20. Enforcement. Institutions of higher
23 education shall strictly comply with the provisions of this
24 Act. The Department is authorized, directed, and required to
25 take all actions necessary to obtain such compliance and

1 otherwise enforce the provisions of this Act. Notwithstanding
2 and in addition to any other requirement of this Act or any
3 other provision of law:

4 (1) The provisions of this Act may be enforced
5 pursuant to judicial proceedings against an alleged
6 violator that seek to require the violator to cease and
7 desist from violation of the Act, allow one or more
8 returning residents or incarcerated individuals to enroll
9 in the class or classes they are entitled to enroll in
10 pursuant to this Act, and pay any damages suffered by one
11 or more returning residents or incarcerated individuals
12 for violation of the Act.

13 (2) A returning resident or incarcerated individual
14 shall have a private right of action to enforce the
15 provisions of this Act by personally bringing an action
16 pursuant to paragraph (1). Any institution of higher
17 education that is found liable for violation of this Act
18 pursuant to this paragraph shall, in addition to other
19 damages, be liable to pay all reasonable attorney's fees,
20 costs, and expenses incurred by the returning resident or
21 incarcerated individual and that pertain to the returning
22 resident's or incarcerated individual's attempts to
23 enforce the returning resident's or incarcerated
24 individual's rights against that institution of higher
25 education pursuant to this Act.

26 (3) Venue for any action brought pursuant to this

1 Section shall be in the county where the returning
2 resident who is the subject of the action is domiciled or
3 the county where the incarcerated individual who is the
4 subject of the action is detained.

5 Section 5-25. Incarcerated Individuals and Returning
6 Residents Educational Supply Fund; rules.

7 (a) The Incarcerated Individuals and Returning Residents
8 Educational Supply Fund is established as a fund of the
9 Department. Moneys in the Fund shall be used exclusively to
10 pay for all or a portion of the costs that incarcerated
11 individuals and returning residents incur for books or other
12 supplies needed to take one or more classes pursuant to this
13 Act. Moneys in the Fund shall not be transferable to any other
14 State fund and shall not be pledged or used for any purpose
15 other than those set forth in this Section.

16 (b) Any concession or similar agreement between a public
17 institution of higher education and the operator of a
18 bookstore or similar operation at that public institution of
19 higher education shall include a provision requiring the
20 operator of the bookstore or similar operation to pay 1% of its
21 gross revenues from the operation of that bookstore or similar
22 operation to the Incarcerated Individuals and Returning
23 Residents Educational Supply Fund. The Department of Revenue
24 shall collect such moneys from such operators and shall remit
25 such collections for deposit into the Fund. Notwithstanding

1 any other provision of this Act, the Department of Revenue
2 shall be authorized to enforce the provisions of this
3 subsection (b) regarding payments due from such operators.
4 Within 120 days after the effective date of this Act, the
5 Department of Revenue shall publish notice of proposed rules
6 necessary for it to implement the provisions of this
7 subsection (b) in the Illinois Register in accordance with
8 Section 5-40 of the Illinois Administrative Procedure Act.

9 (c) Within 120 days after the later of the: (i)
10 appointment of the Department's first Director; or (ii)
11 effective date of this Act, the Department shall publish
12 notice of proposed rules necessary for it to implement the
13 provisions of this Act in the Illinois Register in accordance
14 with Section 5-40 of the Illinois Administrative Procedure
15 Act.

16 Section 5-30. Prison college facility study. In addition
17 to its other powers and duties, the Illinois Higher Education
18 in Prison Task Force shall create a detailed proposal for the
19 transition of an existing Department of Corrections facility
20 to a full-time, post-secondary, degree granting academic
21 institution for persons incarcerated by the Department of
22 Corrections. That detailed proposal shall include, without
23 limitation, a plan for the operation of a current Department
24 of Corrections facility exclusively as a full-time,
25 post-secondary, degree granting academic institution within 3

1 years after the effective date of this Act. That Task Force
2 shall submit its detailed proposal to the Governor and General
3 Assembly within one year of the effective date of this Act.

4 Section 5-35. Administration. This Act shall be
5 incorporated in and administered by the Department as part of
6 the Second Chance State Program established under the
7 Department of Returning Resident Affairs Act.

8 Section 5-40. Provisions of Act mandatory. The provisions
9 of this Act are mandatory and shall not be considered to be
10 directory or discretionary.

11 Article 10

12 Section 10-1. Short title. This Article may be cited as
13 the Second Chance State College Admissions Act. As used in
14 this Article, "this Act" means this Article.

15 Section 10-5. Definitions. As used in this Act:

16 "Admission decision-making process" means the submission
17 of a college application and all aspects of the college
18 application process through admission.

19 "Applicant" means an individual who is seeking admission
20 to an institution of higher education.

21 "Criminal history information" means any record regarding

1 an applicant's criminal history, including, but not limited
2 to, records of: (1) arrests and detentions, (2) criminal
3 charges or indictments and the nature of any disposition
4 arising therefrom that does not result in a conviction, and
5 (3) convictions other than convictions pursuant to: (A)
6 Articles 9 and 10, Subdivisions 5, 10, and 20 of Article 11,
7 Sections 11-25 and 11-26, Article 20, 29D, or 30 of the
8 Criminal Code of 2012 or similar laws enacted by other
9 governmental authorities; or (B) Article 12, 24, or 33A of the
10 Criminal Code of 2012 or similar laws enacted by other
11 governmental authorities unless 5 years have passed since the
12 completion of any sentence imposed pursuant to such conviction
13 and the defendant convicted of the offense has not since been
14 convicted of a felony.

15 "Degree granting institution" has the meaning set forth in
16 Section 2 of the Academic Degree Act.

17 "Institution of higher education" means any publicly or
18 privately operated university, college, community college,
19 business, technical, or vocational school, or other
20 educational institution offering degrees or instruction beyond
21 the secondary school level, including, without limitation, a
22 degree granting institution, post-secondary educational
23 institution, public institution of higher education, or any
24 institution that operates pursuant to authority provided to it
25 by the Board of Higher Education or the Board of Higher
26 Education Act.

1 "Post-secondary educational institution" has the meaning
2 set forth in Section 1 of the Private College Act.

3 "Public institutions of higher education" has the meaning
4 set forth in Section 1 of the Board of Higher Education Act.

5 "Student" means any person taking or seeking to take any
6 class at a public institution of higher education, regardless
7 of whether the individual has been admitted as a student at
8 that public institution of higher education.

9 Section 10-10. Discrimination prohibited. Except as
10 provided herein and otherwise authorized by law, no
11 institution of higher education shall consider an applicant's
12 or student's criminal history information when making any
13 decision about the applicant or student. This Section does not
14 apply to decisions regarding housing.

15 Section 10-15. Inquiry about and consideration of criminal
16 history information during the admission process.

17 (a) An institution of higher education shall not inquire
18 about or consider an applicant's criminal history information
19 at any time during the admission decision-making process.

20 (b) Notwithstanding the provisions of subsection (a), an
21 institution of higher education may make inquiry about or
22 consider an applicant's criminal history information if such
23 inquiry or consideration is required by federal law or
24 pursuant to Section 2605-327 of the Illinois State Police Law

1 of the Civil Administrative Code of Illinois or Section 10,
2 15, or 20 of the Medical School Matriculant Criminal History
3 Records Check Act, if applicable. Any inquiry or consideration
4 shall be limited to that which is necessary to comply with the
5 applicable State or federal law. Inquiry about or
6 consideration of criminal history information outside the
7 scope of that required by applicable State or federal law is
8 prohibited.

9 Section 10-20. Probationary status based on criminal
10 history information prohibited. An institution of higher
11 education shall not place an applicant or student on any
12 probationary or similar status based upon criminal history
13 information.

14 Section 10-25. Information about educational, licensing,
15 or employment barriers for people with criminal records. An
16 institution for higher education shall include information on
17 its website that informs prospective applicants that a
18 criminal record may affect an individual's ability to obtain
19 certain professional or occupational licenses or types of
20 employment or to participate in certain clinical or other
21 educational requirements.

22 Section 10-30. Enforcement. Institutions of higher
23 education shall strictly comply with the provisions of this

1 Act. The Board of Higher Education is authorized, directed,
2 and required to take all actions necessary to obtain such
3 compliance and otherwise enforce the provisions of this Act.
4 Within 120 days after the effective date of this Act, the Board
5 of Higher Education shall publish notice of proposed rules
6 necessary for it to implement the provisions of this Act in the
7 Illinois Register in accordance with Section 5-40 of the
8 Illinois Administrative Procedure Act. Notwithstanding and in
9 addition to any other requirement of this Act or any other
10 provision of law:

11 (1) The provisions of this Act may be enforced
12 pursuant to judicial proceedings against an alleged
13 violator that seek to require the violator to cease and
14 desist from violation of the Act and pay any damages
15 suffered by one or more persons aggrieved by the Act.
16 Venue for any such action shall be in the county where the
17 person aggrieved by a violation of this Act is domiciled.
18 If the person aggrieved by a violation of this Act is not
19 domiciled in Illinois, venue for any such action shall be
20 in the county where the principal office of the
21 institution of higher education that is the subject to
22 such action is located.

23 (2) Any person who has been aggrieved by a violation
24 of this Act shall have a private right of action to enforce
25 the provisions of this Act by personally bringing an
26 action pursuant to paragraph (1) above. Any institution of

1 higher education that is found liable for violation of
2 this Act pursuant to this paragraph shall, in addition to
3 other damages, be liable to pay all reasonable attorney's
4 fees, costs, and expenses incurred by the plaintiff in
5 that action and that pertain to that plaintiff's attempts
6 to enforce its rights against that institution of higher
7 education pursuant to this Act.

8 Section 10-35. Provisions of Act mandatory. The provisions
9 of this Act are mandatory and shall not be considered to be
10 directory or discretionary.

11 Article 99

12 Section 99-97. Severability. The provisions of this Act
13 are severable under Section 1.31 of the Statute on Statutes.

14 Section 99-99. Effective date. This Article and Articles 1
15 and 10 take effect upon becoming law. Article 5 takes effect
16 upon becoming law, but Article 5 does not take effect at all
17 unless "An Act creating the Department of Returning Resident
18 Affairs" of the 102nd General Assembly becomes law.