

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 a county jail, on

1 parole, on intensive supervision probation, or on the sex
2 offender registry, when the unjustly convicted person
3 ~~imprisoned~~ received a pardon from the Governor stating
4 that such pardon is issued on the ground of innocence of
5 the crime for which he or she was convicted ~~imprisoned~~ or
6 he or she received a certificate of innocence from the
7 Circuit Court as provided in Section 2-702 of the Code of
8 Civil Procedure. The court shall make an award of \$50,000
9 per year, and prorated for any partial year, during which
10 the person was wrongfully incarcerated in a State
11 correctional institution or in a county jail, including
12 the time the person was incarcerated awaiting trial, and
13 \$25,000 for each year, and prorated for any partial year,
14 during which the person was wrongfully on parole,
15 wrongfully on intensive supervision probation, or was
16 wrongfully required to register as a sex offender. In
17 addition, the Circuit Court shall make an award of
18 reasonable attorney's fees, costs, and expenses in the
19 amount determined by the Circuit Court after awarding a
20 certificate of innocence under Section 2-702 of the Code
21 of Civil Procedure. The ; provided, the amount of the
22 ~~award is at the discretion of the court; and provided, the~~
23 ~~court shall make no award in excess of the following~~
24 ~~amounts: for imprisonment of 5 years or less, not more~~
25 ~~than \$85,350; for imprisonment of 14 years or less but~~
26 ~~over 5 years, not more than \$170,000; for imprisonment of~~

1 ~~over 14 years, not more than \$199,150; and provided~~
2 ~~further, the court shall fix attorney's fees not to exceed~~
3 ~~25% of the award granted. On or after the effective date of~~
4 ~~this amendatory Act of the 95th General Assembly, the~~
5 court shall annually adjust the ~~maximum~~ awards authorized
6 by this subsection (c) to reflect the increase, if any, in
7 the Consumer Price Index For All Urban Consumers for the
8 previous calendar year, as determined by the United States
9 Department of Labor, except that no annual increment may
10 exceed 5%. For the annual adjustments, if the Consumer
11 Price Index decreases during a calendar year, there shall
12 be no adjustment for that calendar year. The transmission
13 by the Prisoner Review Board or the clerk of the circuit
14 court of the information described in Section 11(b) to the
15 clerk of the Court of Claims is conclusive evidence of the
16 validity of the claim. The changes made by this amendatory
17 Act of the 95th General Assembly apply to all claims
18 pending on or filed on or after the effective date. The
19 changes made by this amendatory Act of the 103rd General
20 Assembly apply to all claims pending or filed on or after
21 the effective date of this amendatory Act of the 103rd
22 General Assembly.

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

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

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

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

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

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

25 (g) All claims filed pursuant to the Crime Victims
26 Compensation Act.

1 (h) All claims pursuant to the Illinois National
2 Guardsmen's Compensation Act. A claim under that Act must
3 be heard and determined within one year after the
4 application for that claim is filed with the Court as
5 provided in that Act.

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

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

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

12 Sec. 11. Filing claims.

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

1 agent, or attorney.

2 (b) Whenever a person has served a term of imprisonment
3 and has received a pardon by the Governor stating that such
4 pardon was issued on the ground of innocence of the crime for
5 which he or she was convicted ~~imprisoned~~, the Prisoner Review
6 Board shall transmit this information to the clerk of the
7 Court of Claims, together with the claimant's current address.
8 Whenever a person ~~has served a term of imprisonment and~~ has
9 received a certificate of innocence from the Circuit Court as
10 provided in Section 2-702 of the Code of Civil Procedure, the
11 clerk of the issuing Circuit Court shall transmit this
12 information to the clerk of the Court of Claims, together with
13 the claimant's current address. The clerk of the Court of
14 Claims shall immediately docket the case for consideration by
15 the Court of Claims, and shall provide notice to the claimant
16 of such docketing together with all hearing dates and
17 applicable deadlines. The Court of Claims shall hear the case
18 and render a decision within 90 days after its 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 of crimes in Illinois
4 ~~and subsequently imprisoned~~ have been frustrated in seeking
5 legal redress due to a variety of substantive and technical
6 obstacles in the law and that such persons should have an
7 available avenue to obtain a finding of innocence so that they
8 may obtain relief through a petition in the Court of Claims.
9 The General Assembly further finds misleading the current
10 legal nomenclature which compels an innocent person to seek a
11 pardon for being wrongfully incarcerated. It is the intent of
12 the General Assembly that the court, in exercising its
13 discretion as permitted by law regarding the weight and
14 admissibility of evidence submitted pursuant to this Section,
15 shall, in the interest of justice, give due consideration to
16 difficulties of proof caused by the passage of time, the death
17 or unavailability of witnesses, the destruction of evidence or
18 other factors not caused by such persons or those acting on
19 their behalf.

20 (b) Any person who is convicted or adjudicated a
21 delinquent and subsequently serves any part of a sentence of
22 incarceration in a State correctional institution or in a
23 county jail, of parole, of intensive supervision probation, or
24 of registration as a sex offender ~~imprisoned~~ for one or more
25 felonies by the State of Illinois which he or she did not
26 commit may, under the conditions hereinafter provided, file a

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

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

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

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

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

1 (d) The petition shall state facts in sufficient detail to
2 permit the court to find that the petitioner is likely to
3 succeed at trial in proving that the petitioner is innocent of
4 the alleged offenses for which he or she was convicted or
5 adjudicated a delinquent ~~charged in the indictment or~~
6 ~~information or his or her acts or omissions charged in the~~
7 ~~indictment or information did not constitute a felony or~~
8 ~~misdemeanor against the State of Illinois~~, and the petitioner
9 did not by his or her own conduct voluntarily cause or bring
10 about his or her conviction or juvenile delinquency
11 adjudication. Neither a guilty plea nor a confession
12 constitutes conduct causing or bringing about one's conviction
13 or delinquency adjudication. The petition shall be verified by
14 the petitioner.

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

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

1 proceedings or the right to counsel was knowingly waived.

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

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

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

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

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

1 juvenile delinquency adjudication. Neither a guilty plea
2 nor a confession constitutes conduct causing or bringing
3 about one's conviction or delinquency adjudication.

4 (h) If the court finds that the petitioner is entitled to a
5 judgment, it shall enter a certificate of innocence finding
6 that the petitioner was innocent of one or more ~~all~~ offenses
7 for which he or she was convicted or adjudicated a delinquent.
8 The court shall also make a determination, subject to proof by
9 the claimant, of the reasonable attorney's fees, costs, and
10 expenses incurred by the claimant in connection with obtaining
11 the certificate of innocence under this Section ~~incarcerated.~~
12 Upon entry of the certificate of innocence or pardon from the
13 Governor stating that such pardon was issued on the ground of
14 innocence of the crime for which he or she was convicted or
15 adjudicated a delinquent ~~imprisoned~~, (1) the clerk of the
16 court shall transmit a copy of the certificate of innocence to
17 the clerk of the Court of Claims, together with the claimant's
18 current address; and (2) the court shall enter an order
19 expunging the record of arrest from the official records of
20 the arresting authority and order that the records of the
21 clerk of the circuit court and the Illinois State Police be
22 sealed until further order of the court upon good cause shown
23 or as otherwise provided herein, and the name of the defendant
24 or respondent in a juvenile delinquency proceeding obliterated
25 from the official index requested to be kept by the circuit
26 court clerk under Section 16 of the Clerks of Courts Act in

1 connection with the arrest and conviction or delinquency
2 adjudication for the offense but the order shall not affect
3 any index issued by the circuit court clerk before the entry of
4 the order. The court shall enter the expungement order
5 regardless of whether the petitioner has prior criminal
6 convictions or delinquency adjudications.

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

15 Upon entry of the order of expungement, the clerk of the
16 circuit court shall promptly mail a copy of the order to the
17 person whose records were expunged and sealed.

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 the effective
21 date of this amendatory Act of the 95th General Assembly shall
22 file his or her petition within 2 years after the effective
23 date of this amendatory Act of the 95th General Assembly. Any
24 person seeking a certificate of innocence under this Section
25 based on the dismissal of an indictment or information or
26 acquittal that occurred on or after the effective date of this

1 amendatory Act of the 95th General Assembly shall file his or
2 her petition within 2 years after the dismissal or acquittal.
3 Any person seeking a certificate of innocence under this
4 Section based on the dismissal of a juvenile delinquency
5 petition or an acquittal on such petition that occurred before
6 the effective date of this amendatory Act of the 103rd General
7 Assembly, including a petitioner whose petition was denied
8 solely on the basis that this Section did not formerly apply to
9 juvenile delinquency adjudications, shall file his or her
10 petition within 4 years after the effective date of this
11 amendatory Act of the 103rd General Assembly. Any person
12 seeking a certificate of innocence under this Section based on
13 the dismissal of a juvenile delinquency petition or an
14 acquittal on such petition that occurred on or after the
15 effective date of this amendatory Act of the 103rd General
16 Assembly shall file his or her petition within 2 years after
17 the dismissal or acquittal.

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

22 (Source: P.A. 102-538, eff. 8-20-21.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.