



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0644

Introduced 1/28/2005, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

20 ILCS 415/8b.7-5 new	
705 ILCS 505/8	from Ch. 37, par. 439.8
705 ILCS 505/11	from Ch. 37, par. 439.11
705 ILCS 505/22	from Ch. 37, par. 439.22
705 ILCS 505/24	from Ch. 37, par. 439.24

Amends the Personnel Code. Establishes a preference in an entrance examination of 5 points for a person if: (i) he or she has been discharged from a prison of this State; (ii) he or she has been wrongfully accused of a crime for which he or she was imprisoned; and (iii) a court of competent jurisdiction finds that the evidence that resulted in his or her conviction was erroneous or that new evidence indicates that the person did not commit the crime for which he or she was imprisoned. Amends the Court of Claims Act. Grants the court exclusive jurisdiction over claims for time unjustly served when the person was wrongfully accused of the crime for which he or she was imprisoned and a court of competent jurisdiction finds that the evidence that resulted in his or her conviction was erroneous or that new evidence indicates that the person did not commit the crime for which he or she was imprisoned (instead of jurisdiction where the persons shall receive a pardon by the Governor stating that such pardon is issued on the ground of innocence of the crime for which they were imprisoned). Increases the maximum statutory awards to a person released from prison because of these factors. Effective immediately.

LRB094 06864 LCB 36971 b

1 AN ACT concerning imprisonment.

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

4 Section 5. The Personnel Code is amended by adding Section
5 8b.7-5 as follows:

6 (20 ILCS 415/8b.7-5 new)

7 Sec. 8b.7-5. Unjustly imprisoned preference.

8 (a) A person shall be qualified for a preference in
9 entrance examinations if: (i) he or she has been discharged
10 from a prison of this State; (ii) he or she has been wrongfully
11 accused of a crime for which he or she was imprisoned; and
12 (iii) a court of competent jurisdiction finds that the evidence
13 that resulted in his or her conviction was erroneous or that
14 new evidence indicates that the person did not commit the crime
15 for which he or she was imprisoned.

16 (b) The preference granted under this Section shall be in
17 the form of points added to the final grade of the person if
18 the person otherwise qualifies and is entitled to appear on the
19 list of those eligible for appointments.

20 (c) A person qualified for a preference under this Section
21 shall receive a preference of 5 points.

22 (d) The Department of Central Management Services shall
23 adopt rules and implement procedures to verify that any person
24 seeking a preference under this Section provides documentation
25 or executes any consents or other documents required by the
26 Department of Central Management Services or any other State
27 Department or agency to enable that Department or agency to
28 verify that the person is entitled to the preference.

29 Section 10. The Court of Claims Act is amended by changing
30 Sections 8, 11, 22, and 24 as follows:

1 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

2 Sec. 8. Court of Claims jurisdiction. The court shall have
3 exclusive jurisdiction to hear and determine the following
4 matters:

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

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

16 (c) All claims against the State for time unjustly served
17 in prisons of this State when ~~where~~ the person ~~persons~~
18 imprisoned was wrongfully accused of the crime for which he or
19 she was imprisoned and a court of competent jurisdiction finds
20 that the evidence that resulted in his or her conviction was
21 erroneous or that new evidence indicates that the person did
22 not commit the crime for which he or she was imprisoned ~~shall~~
23 ~~receive a pardon from the governor stating that such pardon is~~
24 ~~issued on the ground of innocence of the crime for which they~~
25 ~~were imprisoned; provided, the amount of the award is at the~~
26 discretion of the court; and provided, the court shall make no
27 award in excess of the following amounts: for imprisonment of 5
28 years or less, not more than \$85,350 ~~\$15,000~~; for imprisonment
29 of 14 years or less but over 5 years, not more than \$170,000
30 ~~\$30,000~~; for imprisonment of over 14 years, not more than
31 \$199,150 ~~\$35,000~~; and provided further, the court shall fix
32 attorney's fees not to exceed 25% of the award granted. On or
33 after the effective date of this amendatory Act of the 94th
34 General Assembly, ~~On December 31, 1996, the court shall make a~~
35 ~~one-time adjustment in the maximum awards authorized by this~~
36 ~~subsection (c), to reflect the increase in the cost of living~~

1 ~~from the year in which these maximum awards were last adjusted~~
2 ~~until 1996, but with no annual increment exceeding 5%.~~
3 ~~Thereafter,~~ the court shall annually adjust the maximum awards
4 authorized by this subsection (c) to reflect the increase, if
5 any, in the Consumer Price Index For All Urban Consumers for
6 the previous calendar year, as determined by the United States
7 Department of Labor, except that no annual increment may exceed
8 5%. For ~~both~~ the ~~one time adjustment and the subsequent~~ annual
9 adjustments, if the Consumer Price Index decreases during a
10 calendar year, there shall be no adjustment for that calendar
11 year. The changes made by this amendatory Act of the 94th
12 General Assembly apply to all claims pending on or filed on or
13 after the effective date. ~~The changes made by Public Act 89-689~~
14 ~~apply to all claims filed on or after January 1, 1995 that are~~
15 ~~pending on December 31, 1996 and all claims filed on or after~~
16 ~~December 31, 1996.~~

17 (d) All claims against the State for damages in cases
18 sounding in tort, if a like cause of action would lie against a
19 private person or corporation in a civil suit, and all like
20 claims sounding in tort against the Medical Center Commission,
21 the Board of Trustees of the University of Illinois, the Board
22 of Trustees of Southern Illinois University, the Board of
23 Trustees of Chicago State University, the Board of Trustees of
24 Eastern Illinois University, the Board of Trustees of Governors
25 State University, the Board of Trustees of Illinois State
26 University, the Board of Trustees of Northeastern Illinois
27 University, the Board of Trustees of Northern Illinois
28 University, the Board of Trustees of Western Illinois
29 University, or the Board of Trustees of the Illinois
30 Mathematics and Science Academy; provided, that an award for
31 damages in a case sounding in tort, other than certain cases
32 involving the operation of a State vehicle described in this
33 paragraph, shall not exceed the sum of \$100,000 to or for the
34 benefit of any claimant. The \$100,000 limit prescribed by this
35 Section does not apply to an award of damages in any case
36 sounding in tort arising out of the operation by a State

1 employee of a vehicle owned, leased or controlled by the State.
2 The defense that the State or the Medical Center Commission or
3 the Board of Trustees of the University of Illinois, the Board
4 of Trustees of Southern Illinois University, the Board of
5 Trustees of Chicago State University, the Board of Trustees of
6 Eastern Illinois University, the Board of Trustees of Governors
7 State University, the Board of Trustees of Illinois State
8 University, the Board of Trustees of Northeastern Illinois
9 University, the Board of Trustees of Northern Illinois
10 University, the Board of Trustees of Western Illinois
11 University, or the Board of Trustees of the Illinois
12 Mathematics and Science Academy is not liable for the
13 negligence of its officers, agents, and employees in the course
14 of their employment is not applicable to the hearing and
15 determination of such claims.

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

18 (f) All claims pursuant to the Line of Duty Compensation
19 Act.

20 (g) All claims filed pursuant to the Crime Victims
21 Compensation Act.

22 (h) All claims pursuant to the Illinois National
23 Guardsman's Compensation Act.

24 (i) All claims authorized by subsection (a) of Section
25 10-55 of the Illinois Administrative Procedure Act for the
26 expenses incurred by a party in a contested case on the
27 administrative level.

28 (Source: P.A. 93-1047, eff. 10-18-04.)

29 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

30 Sec. 11. Filing claims.

31 (a) Except as otherwise provided in subsection (b) of this
32 Section and subsection (3) of Section 24, the claimant shall in
33 all cases set forth fully in his petition the claim, the action
34 thereon, if any, on behalf of the State, what persons are
35 owners thereof or interested therein, when and upon what

1 consideration such persons became so interested; that no
2 assignment or transfer of the claim or any part thereof or
3 interest therein has been made, except as stated in the
4 petition; that the claimant is justly entitled to the amount
5 therein claimed from the State of Illinois, after allowing all
6 just credits; and that claimant believes the facts stated in
7 the petition to be true. The petition shall be verified, as to
8 statements of facts, by the affidavit of the claimant, his
9 agent, or attorney.

10 (b) Whenever a person who has served a term of imprisonment
11 and has been discharged from prison because a court of
12 competent jurisdiction has found that the evidence that
13 resulted in the person's conviction was erroneous or that new
14 evidence indicates that the person did not commit the crime for
15 which he or she was convicted, the clerk of the court of
16 competent jurisdiction shall transmit this information to the
17 clerk of the Court of Claims. The clerk of the Court of Claims
18 shall immediately docket the case for consideration by the
19 Court of Claims. The Court of Claims shall hear the case and
20 render a decision within 90 days after its docketing. The
21 transmission by the clerk of the court of competent
22 jurisdiction of the information described in this subsection
23 (b) to the clerk of the Court of Claims is conclusive evidence
24 of the validity of the claim.

25 (Source: Laws 1945, p. 660.)

26 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

27 Sec. 22. Every claim cognizable by the Court and not
28 otherwise sooner barred by law shall be forever barred from
29 prosecution therein unless it is filed with the Clerk of the
30 Court within the time set forth as follows:

31 (a) All claims arising out of a contract must be filed
32 within 5 years after it first accrues, saving to minors, and
33 persons under legal disability at the time the claim accrues,
34 in which cases the claim must be filed within 5 years from the
35 time the disability ceases.

1 (b) All claims cognizable against the State by vendors of
2 goods or services under "The Illinois Public Aid Code",
3 approved April 11, 1967, as amended, must file within one year
4 after the accrual of the cause of action, as provided in
5 Section 11-13 of that Code.

6 (c) All claims arising under paragraph (c) of Section 8 of
7 this Act must be automatically heard by the court and payment
8 made ~~filed~~ within 120 days ~~2 years~~ after the person unjustly
9 imprisoned ~~asserting such claim~~ is discharged from prison
10 without the person unjustly imprisoned being required to file a
11 petition under Section 11 of this Act ~~, or is granted a pardon~~
12 ~~by the Governor, whichever occurs later, except as otherwise~~
13 ~~provided by the Crime Victims Compensation Act.~~

14 (d) All claims arising under paragraph (f) of Section 8 of
15 this Act must be filed within one year of the date of the death
16 of the law enforcement officer or fireman as provided in
17 Section 3 of the "Law Enforcement Officers and Firemen
18 Compensation Act", approved September 30, 1969, as amended.

19 (e) All claims arising under paragraph (h) of Section 8 of
20 this Act must be filed within one year of the date of the death
21 of the guardsman or militiaman as provided in Section 3 of the
22 "Illinois National Guardsman's and Naval Militiaman's
23 Compensation Act", approved August 12, 1971, as amended.

24 (f) All claims arising under paragraph (g) of Section 8 of
25 this Act must be filed within one year of the crime on which a
26 claim is based as provided in Section 6.1 of the "Crime Victims
27 Compensation Act", approved August 23, 1973, as amended.

28 (g) All claims arising from the Comptroller's refusal to
29 issue a replacement warrant pursuant to Section 10.10 of the
30 State Comptroller Act must be filed within 5 years after the
31 issue date of such warrant.

32 (h) All other claims must be filed within 2 years after it
33 first accrues, saving to minors, and persons under legal
34 disability at the time the claim accrues, in which case the
35 claim must be filed within 2 years from the time the disability
36 ceases.

1 (i) The changes made by this amendatory Act of 1989 shall
2 apply to all warrants issued within the 5 year period preceding
3 the effective date of this amendatory Act of 1989.

4 (j) All time limitations established under this Act and the
5 rules promulgated under this Act shall be binding and
6 jurisdictional, except upon extension authorized by law or rule
7 and granted pursuant to a motion timely filed.

8 (Source: P.A. 86-458.)

9 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

10 Sec. 24. Payment of awards.

11 (1) From funds appropriated by the General Assembly for the
12 purposes of this Section the Court may direct immediate payment
13 of:

14 (a) All claims arising solely as a result of the
15 lapsing of an appropriation out of which the obligation
16 could have been paid.

17 (b) All claims pursuant to the "Law Enforcement
18 Officers and Firemen Compensation Act", approved September
19 30, 1969, as amended.

20 (c) All claims pursuant to the "Illinois National
21 Guardsman's and Naval Militiaman's Compensation Act",
22 approved August 12, 1971, as amended.

23 (d) All claims pursuant to the "Crime Victims
24 Compensation Act", approved August 23, 1973, as amended.

25 (e) All other claims wherein the amount of the award of
26 the Court is less than \$5,000.

27 (2) The court may, from funds specifically appropriated
28 from the General Revenue Fund for this purpose, direct the
29 payment of awards less than \$50,000 solely as a result of the
30 lapsing of an appropriation originally made from any fund held
31 by the State Treasurer. For any such award paid from the
32 General Revenue Fund, the court shall thereafter seek an
33 appropriation from the fund from which the liability originally
34 accrued in reimbursement of the General Revenue Fund.

35 (3) From funds appropriated by the General Assembly for the

1 purposes of paying claims under paragraph (c) of Section 8, the
2 court must direct payment of each claim within 120 days after
3 discharge from prison of the person who has unjustly served
4 time in a prison of this State.

5 (Source: P.A. 92-357, eff. 8-15-01.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.