

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 Public Employment Office Act is amended by
5 adding Section 2 as follows:

6 (20 ILCS 1015/2 new)

7 Sec. 2. Persons unjustly imprisoned; job search and
8 placement services. Each local office of the Department shall
9 provide each person to whom this Section applies with job
10 search and placement services, including assessment, resume
11 assistance, interview preparation, occupational and labor
12 market information, referral to employers with job openings to
13 which the person is suited and referral to such job training
14 and education program providers as may be appropriate and
15 available through the partnering agencies with which the local
16 office is affiliated. This Section applies to a person who has
17 been discharged from a prison of this State if the person
18 received a pardon from the Governor stating that such pardon is
19 issued on the ground of innocence of the crime for which he or
20 she was imprisoned or he or she has received a certificate of
21 innocence from the Circuit Court as provided in Section 2-702
22 of the Code of Civil Procedure.

1 Section 10. The Court of Claims Act is amended by changing
2 Sections 8, 11, 22, and 24 and by adding Section 24.5 as
3 follows:

4 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

5 Sec. 8. Court of Claims jurisdiction. The court shall have
6 exclusive jurisdiction to hear and determine the following
7 matters:

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

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

19 (c) All claims against the State for time unjustly served
20 in prisons of this State when ~~where~~ the person ~~persons~~
21 imprisoned received ~~shall receive~~ a pardon from the governor
22 stating that such pardon is issued on the ground of innocence
23 of the crime for which he or she was ~~they were~~ imprisoned or he
24 or she received a certificate of innocence from the Circuit
25 Court as provided in Section 2-702 of the Code of Civil

1 Procedure; provided, the amount of the award is at the
2 discretion of the court; and provided, the court shall make no
3 award in excess of the following amounts: for imprisonment of 5
4 years or less, not more than \$85,350 ~~\$15,000~~; for imprisonment
5 of 14 years or less but over 5 years, not more than \$170,000
6 ~~\$30,000~~; for imprisonment of over 14 years, not more than
7 \$199,150 ~~\$35,000~~; and provided further, the court shall fix
8 attorney's fees not to exceed 25% of the award granted. On or
9 after the effective date of this amendatory Act of the 95th
10 General Assembly, ~~On December 31, 1996, the court shall make a~~
11 ~~one-time adjustment in the maximum awards authorized by this~~
12 ~~subsection (c), to reflect the increase in the cost of living~~
13 ~~from the year in which these maximum awards were last adjusted~~
14 ~~until 1996, but with no annual increment exceeding 5%.~~
15 ~~Thereafter,~~ the court shall annually adjust the maximum awards
16 authorized by this subsection (c) to reflect the increase, if
17 any, in the Consumer Price Index For All Urban Consumers for
18 the previous calendar year, as determined by the United States
19 Department of Labor, except that no annual increment may exceed
20 5%. For ~~both the one-time adjustment and the subsequent~~ annual
21 adjustments, if the Consumer Price Index decreases during a
22 calendar year, there shall be no adjustment for that calendar
23 year. The transmission by the Prisoner Review Board or the
24 clerk of the circuit court of the information described in
25 Section 11(b) to the clerk of the Court of Claims is conclusive
26 evidence of the validity of the claim. The changes made by this

1 amendatory Act of the 95th General Assembly apply to all claims
2 pending on or filed on or after the effective date. ~~The changes~~
3 ~~made by Public Act 89-689 apply to all claims filed on or after~~
4 ~~January 1, 1995 that are pending on December 31, 1996 and all~~
5 ~~claims filed on or after December 31, 1996.~~

6 (d) All claims against the State for damages in cases
7 sounding in tort, if a like cause of action would lie against a
8 private person or corporation in a civil suit, and all like
9 claims sounding in tort against the Medical Center Commission,
10 the Board of Trustees of the University of Illinois, the Board
11 of Trustees of Southern Illinois University, the Board of
12 Trustees of Chicago State University, the Board of Trustees of
13 Eastern Illinois University, the Board of Trustees of Governors
14 State University, the Board of Trustees of Illinois State
15 University, the Board of Trustees of Northeastern Illinois
16 University, the Board of Trustees of Northern Illinois
17 University, the Board of Trustees of Western Illinois
18 University, or the Board of Trustees of the Illinois
19 Mathematics and Science Academy; provided, that an award for
20 damages in a case sounding in tort, other than certain cases
21 involving the operation of a State vehicle described in this
22 paragraph, shall not exceed the sum of \$100,000 to or for the
23 benefit of any claimant. The \$100,000 limit prescribed by this
24 Section does not apply to an award of damages in any case
25 sounding in tort arising out of the operation by a State
26 employee of a vehicle owned, leased or controlled by the State.

1 The defense that the State or the Medical Center Commission or
2 the Board of Trustees of the University of Illinois, the Board
3 of Trustees of Southern Illinois University, the Board of
4 Trustees of Chicago State University, the Board of Trustees of
5 Eastern Illinois University, the Board of Trustees of Governors
6 State 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 is not liable for the
12 negligence of its officers, agents, and employees in the course
13 of their employment is not applicable to the hearing and
14 determination of such claims.

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

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

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

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

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

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

2 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

3 Sec. 11. Filing claims.

4 (a) Except as otherwise provided in subsection (b) of this
5 Section and subsection (3) of Section 24, the claimant shall in
6 all cases set forth fully in his petition the claim, the action
7 thereon, if any, on behalf of the State, what persons are
8 owners thereof or interested therein, when and upon what
9 consideration such persons became so interested; that no
10 assignment or transfer of the claim or any part thereof or
11 interest therein has been made, except as stated in the
12 petition; that the claimant is justly entitled to the amount
13 therein claimed from the State of Illinois, after allowing all
14 just credits; and that claimant believes the facts stated in
15 the petition to be true. The petition shall be verified, as to
16 statements of facts, by the affidavit of the claimant, his
17 agent, or attorney.

18 (b) Whenever a person has served a term of imprisonment and
19 has received a pardon by the Governor stating that such pardon
20 was issued on the ground of innocence of the crime for which he
21 or she was imprisoned, the Prisoner Review Board shall transmit
22 this information to the clerk of the Court of Claims, together
23 with the claimant's current address. Whenever a person has
24 served a term of imprisonment and has received a certificate of
25 innocence from the Circuit Court as provided in Section 2-702

1 of the Code of Civil Procedure, the clerk of the issuing
2 Circuit Court shall transmit this information to the clerk of
3 the Court of Claims, together with the claimant's current
4 address. The clerk of the Court of Claims shall immediately
5 docket the case for consideration by the Court of Claims, and
6 shall provide notice to the claimant of such docketing together
7 with all hearing dates and applicable deadlines. The Court of
8 Claims shall hear the case and render a decision within 90 days
9 after its docketing.

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

11 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

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

16 (a) All claims arising out of a contract must be filed
17 within 5 years after it first accrues, saving to minors, and
18 persons under legal disability at the time the claim accrues,
19 in which cases the claim must be filed within 5 years from the
20 time the disability ceases.

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

1 (c) All claims arising under paragraph (c) of Section 8 of
2 this Act must be automatically heard by the court ~~filed~~ within
3 120 days ~~2 years~~ after the person asserting such claim is
4 either issued a certificate of innocence from the Circuit Court
5 as provided in Section 2-702 of the Code of Civil Procedure
6 ~~discharged from prison~~, or is granted a pardon by the Governor,
7 whichever occurs later, without the person asserting the claim
8 being required to file a petition under Section 11 of this Act,
9 except as otherwise provided by the Crime Victims Compensation
10 Act. Any claims filed by the claimant under paragraph (c) of
11 Section 8 of this Act must be filed within 2 years after the
12 person asserting such claim is either issued a certificate of
13 innocence as provided in Section 2-702 of the Code of Civil
14 Procedure, or is granted a pardon by the Governor, whichever
15 occurs later.

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

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

26 (f) All claims arising under paragraph (g) of Section 8 of

1 this Act must be filed within one year of the crime on which a
2 claim is based as provided in Section 6.1 of the "Crime Victims
3 Compensation Act", approved August 23, 1973, as amended.

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

8 (h) All other claims must be filed within 2 years after it
9 first accrues, saving to minors, and persons under legal
10 disability at the time the claim accrues, in which case the
11 claim must be filed within 2 years from the time the disability
12 ceases.

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

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

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

21 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

22 Sec. 24. Payment of awards.

23 (1) From funds appropriated by the General Assembly for the
24 purposes of this Section the Court may direct immediate payment
25 of:

1 (a) All claims arising solely as a result of the
2 lapsing of an appropriation out of which the obligation
3 could have been paid.

4 (b) All claims pursuant to the "Law Enforcement
5 Officers and Firemen Compensation Act", approved September
6 30, 1969, as amended.

7 (c) All claims pursuant to the "Illinois National
8 Guardsmen's and Naval Militiaman's Compensation Act",
9 approved August 12, 1971, as amended.

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

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

14 (2) The court may, from funds specifically appropriated
15 from the General Revenue Fund for this purpose, direct the
16 payment of awards less than \$50,000 solely as a result of the
17 lapsing of an appropriation originally made from any fund held
18 by the State Treasurer. For any such award paid from the
19 General Revenue Fund, the court shall thereafter seek an
20 appropriation from the fund from which the liability originally
21 accrued in reimbursement of the General Revenue Fund.

22 (3) From funds appropriated by the General Assembly for the
23 purposes of paying claims under paragraph (c) of Section 8, the
24 court must direct payment of each claim and the payment must be
25 received by the claimant within 60 days after the date that the
26 funds are appropriated for that purpose.

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

2 (705 ILCS 505/24.5 new)

3 Sec. 24.5. Applicability. This amendatory Act of the 95th
4 General Assembly shall apply to causes of action filed on or
5 after its effective date.

6 Section 15. The Code of Civil Procedure is amended by
7 adding Section 2-702 as follows:

8 (735 ILCS 5/2-702 new)

9 Sec. 2-702. Petition for a certificate of innocence that
10 the petitioner was innocent of all offenses for which he or she
11 was incarcerated.

12 (a) The General Assembly finds and declares that innocent
13 persons who have been wrongly convicted of crimes in Illinois
14 and subsequently imprisoned have been frustrated in seeking
15 legal redress due to a variety of substantive and technical
16 obstacles in the law and that such persons should have an
17 available avenue to obtain a finding of innocence so that they
18 may obtain relief through a petition in the Court of Claims.
19 The General Assembly further finds misleading the current legal
20 nomenclature which compels an innocent person to seek a pardon
21 for being wrongfully incarcerated. It is the intent of the
22 General Assembly that the court, in exercising its discretion
23 as permitted by law regarding the weight and admissibility of

1 evidence submitted pursuant to this Section, shall, in the
2 interest of justice, give due consideration to difficulties of
3 proof caused by the passage of time, the death or
4 unavailability of witnesses, the destruction of evidence or
5 other factors not caused by such persons or those acting on
6 their behalf.

7 (b) Any person convicted and subsequently imprisoned for
8 one or more felonies by the State of Illinois which he or she
9 did not commit may, under the conditions hereinafter provided,
10 file a petition for certificate of innocence in the circuit
11 court of the county in which the person was convicted. The
12 petition shall request a certificate of innocence finding that
13 the petitioner was innocent of all offenses for which he or she
14 was incarcerated.

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

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

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

1 the indictment or information dismissed; or the statute, or
2 application thereof, on which the indictment or
3 information was based violated the Constitution of the
4 United States or the State of Illinois; and

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

7 (d) The petition shall state facts in sufficient detail to
8 permit the court to find that the petitioner is likely to
9 succeed at trial in proving that the petitioner is innocent of
10 the offenses charged in the indictment or information or his or
11 her acts or omissions charged in the indictment or information
12 did not constitute a felony or misdemeanor against the State of
13 Illinois, and the petitioner did not by his or her own conduct
14 voluntarily cause or bring about his or her conviction. The
15 petition shall be verified by the petitioner.

16 (e) A copy of the petition shall be served on the Attorney
17 General and the State's Attorney of the county where the
18 conviction was had. The Attorney General and the State's
19 Attorney of the county where the conviction was had shall have
20 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 proceedings related to the
24 convictions which resulted in the alleged wrongful
25 incarceration, if the petitioner was either represented by
26 counsel at such prior proceedings or the right to counsel was

1 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 of one or more
5 felonies by the State of Illinois and subsequently
6 sentenced to a term of imprisonment, and has served all or
7 any part of the sentence;

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

16 (3) the petitioner is innocent of the offenses charged
17 in the indictment or information or his or her acts or
18 omissions charged in the indictment or information did not
19 constitute a felony or misdemeanor against the State; and

20 (4) the petitioner did not by his or her own conduct
21 voluntarily cause or bring about his or her conviction.

22 (h) If the court finds that the petitioner is entitled to a
23 judgment, it shall enter a certificate of innocence finding
24 that the petitioner was innocent of all offenses for which he
25 or she was incarcerated. Upon entry of the certificate of
26 innocence, the clerk of the court shall transmit a copy of the

1 certificate of innocence to the clerk of the Court of Claims,
2 together with the claimant's current address.

3 (i) Any person seeking a certificate of innocence under
4 this Section based on the dismissal of an indictment or
5 information or acquittal that occurred before the effective
6 date of this amendatory Act of the 95th General Assembly shall
7 file his or her petition within 2 years after the effective
8 date of this amendatory Act of the 95th General Assembly. Any
9 person seeking a certificate of innocence under this Section
10 based on the dismissal of an indictment or information or
11 acquittal that occurred on or after the effective date of this
12 amendatory Act of the 95th General Assembly shall file his or
13 her petition within 2 years after the dismissal.

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.