



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0241

Introduced 1/19/2007, by Rep. Mark H. Beaubien, Jr.

SYNOPSIS AS INTRODUCED:

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
705 ILCS 505/24.5 new	

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 (in addition to jurisdiction when the person received a pardon by the Governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was imprisoned). Increases the maximum statutory awards to a person released from prison because of these factors.

LRB095 04326 RLC 24368 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning courts.

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, 11, 22, and 24 and by adding Section 24.5 as
6 follows:

7 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

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

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

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

22 (c) All claims against the State for time unjustly served
23 in prisons of this State when ~~where~~ the person ~~persons~~

1 imprisoned (i) was wrongfully accused of the crime for which he
2 or she was imprisoned and a court of competent jurisdiction
3 finds that the evidence that resulted in his or her conviction
4 was erroneous or that new evidence indicates that the person
5 did not commit the crime for which he or she was imprisoned, or
6 (ii) received ~~shall receive~~ a pardon from the governor stating
7 that such pardon is issued on the ground of innocence of the
8 crime for which they were imprisoned; provided, the amount of
9 the award is at the discretion of the court; and provided, the
10 court shall make no award in excess of the following amounts:
11 for imprisonment of 5 years or less, not more than \$85,350
12 ~~\$15,000~~; for imprisonment of 14 years or less but over 5 years,
13 not more than \$170,000 ~~\$30,000~~; for imprisonment of over 14
14 years, not more than \$199,150 ~~\$35,000~~; and provided further,
15 the court shall fix attorney's fees not to exceed 25% of the
16 award granted. On or after the effective date of this
17 amendatory Act of the 95th General Assembly, ~~On December 31,~~
18 ~~1996, the court shall make a one time adjustment in the maximum~~
19 ~~awards authorized by this subsection (c), to reflect the~~
20 ~~increase in the cost of living from the year in which these~~
21 ~~maximum awards were last adjusted until 1996, but with no~~
22 ~~annual increment exceeding 5%. Thereafter,~~ the court shall
23 annually adjust the maximum awards authorized by this
24 subsection (c) to reflect the increase, if any, in the Consumer
25 Price Index For All Urban Consumers for the previous calendar
26 year, as determined by the United States Department of Labor,

1 except that no annual increment may exceed 5%. For ~~both~~ the
2 ~~one-time adjustment and the subsequent~~ annual adjustments, if
3 the Consumer Price Index decreases during a calendar year,
4 there shall be no adjustment for that calendar year. The
5 changes made by this amendatory Act of the 95th General
6 Assembly apply to all claims pending on or filed on or after
7 the effective date. ~~The changes made by Public Act 89-689 apply~~
8 ~~to all claims filed on or after January 1, 1995 that are~~
9 ~~pending on December 31, 1996 and all claims filed on or after~~
10 ~~December 31, 1996.~~

11 (d) All claims against the State for damages in cases
12 sounding in tort, if a like cause of action would lie against a
13 private person or corporation in a civil suit, and all like
14 claims sounding in tort against the Medical Center Commission,
15 the Board of Trustees of the University of Illinois, the Board
16 of Trustees of Southern Illinois University, the Board of
17 Trustees of Chicago State University, the Board of Trustees of
18 Eastern Illinois University, the Board of Trustees of Governors
19 State University, the Board of Trustees of Illinois State
20 University, the Board of Trustees of Northeastern Illinois
21 University, the Board of Trustees of Northern Illinois
22 University, the Board of Trustees of Western Illinois
23 University, or the Board of Trustees of the Illinois
24 Mathematics and Science Academy; provided, that an award for
25 damages in a case sounding in tort, other than certain cases
26 involving the operation of a State vehicle described in this

1 paragraph, shall not exceed the sum of \$100,000 to or for the
2 benefit of any claimant. The \$100,000 limit prescribed by this
3 Section does not apply to an award of damages in any case
4 sounding in tort arising out of the operation by a State
5 employee of a vehicle owned, leased or controlled by the State.
6 The defense that the State or the Medical Center Commission or
7 the Board of Trustees of the University of Illinois, the Board
8 of Trustees of Southern Illinois University, the Board of
9 Trustees of Chicago State University, the Board of Trustees of
10 Eastern Illinois University, the Board of Trustees of Governors
11 State University, the Board of Trustees of Illinois State
12 University, the Board of Trustees of Northeastern Illinois
13 University, the Board of Trustees of Northern Illinois
14 University, the Board of Trustees of Western Illinois
15 University, or the Board of Trustees of the Illinois
16 Mathematics and Science Academy is not liable for the
17 negligence of its officers, agents, and employees in the course
18 of their employment is not applicable to the hearing and
19 determination of such claims.

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

22 (f) All claims pursuant to the Line of Duty Compensation
23 Act.

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

26 (h) All claims pursuant to the Illinois National

1 Guardsman's Compensation Act.

2 (i) All claims authorized by subsection (a) of Section
3 10-55 of the Illinois Administrative Procedure Act for the
4 expenses incurred by a party in a contested case on the
5 administrative level.

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

7 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

8 Sec. 11. Filing claims.

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

23 (b) Whenever a person who has served a term of imprisonment
24 and has been discharged from prison because a court of
25 competent jurisdiction has found that the evidence that

1 resulted in the person's conviction was erroneous or that new
2 evidence indicates that the person did not commit the crime for
3 which he or she was convicted, the clerk of the court of
4 competent jurisdiction shall transmit this information to the
5 clerk of the Court of Claims. Whenever a person who has served
6 a term of imprisonment and has received a pardon by the
7 Governor stating that such pardon was issued on the ground of
8 innocence of the crime for which he or she was imprisoned, the
9 Governor shall transmit this information to the clerk of the
10 Court of Claims. The clerk of the Court of Claims shall
11 immediately docket the case for consideration by the Court of
12 Claims. The Court of Claims shall hear the case and render a
13 decision within 90 days after its docketing. The transmission
14 by the clerk of the court of competent jurisdiction or by the
15 Governor of the information described in this subsection (b) to
16 the clerk of the Court of Claims is conclusive evidence of the
17 validity of the claim.

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

19 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

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

24 (a) All claims arising out of a contract must be filed
25 within 5 years after it first accrues, saving to minors, and

1 persons under legal disability at the time the claim accrues,
2 in which cases the claim must be filed within 5 years from the
3 time the disability ceases.

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

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

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

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

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

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

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

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

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

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

22 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

23 Sec. 24. Payment of awards.

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

1 of:

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

5 (b) All claims pursuant to the "Law Enforcement
6 Officers and Firemen Compensation Act", approved September
7 30, 1969, as amended.

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

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

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

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

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

1 funds are appropriated for that purpose.

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

3 (705 ILCS 505/24.5 new)

4 Sec. 24.5. Reimbursement by county. Except in cases
5 initiated by the Attorney General, in the case of an unjust
6 imprisonment where a judgment has been rendered against the
7 State under this Act in favor of a person who was unjustly
8 imprisoned, the county where the case for the imprisonment
9 originated shall reimburse the State for the full amount of the
10 judgment.

11 This amendatory Act of the 95th General Assembly shall
12 apply to causes of action filed on or after its effective date.