



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB1962**

Introduced 2/23/2007, by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1401

from Ch. 110, par. 2-1401

Amends the Code of Civil Procedure. Provides that Section on relief from final orders and judgments shall not be used to attack a criminal conviction. Deletes a reference to an exception for a Section of the Code of Civil Procedure of 1963 (at present, Section 116-3).

LRB095 08556 AJO 28737 b

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 Code of Civil Procedure is amended by  
5 changing Section 2-1401 as follows:

6 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)  
7 Sec. 2-1401. Relief from judgments.

8 (a) Relief from final orders and judgments, after 30 days  
9 from the entry thereof, may be had upon petition as provided in  
10 this Section. Writs of error coram nobis and coram vobis, bills  
11 of review and bills in the nature of bills of review are  
12 abolished. All relief heretofore obtainable and the grounds for  
13 such relief heretofore available, whether by any of the  
14 foregoing remedies or otherwise, shall be available in every  
15 case, by proceedings hereunder, regardless of the nature of the  
16 order or judgment from which relief is sought or of the  
17 proceedings in which it was entered. Except as provided in  
18 Section 6 of the Illinois Parentage Act of 1984, there shall be  
19 no distinction between actions and other proceedings,  
20 statutory or otherwise, as to availability of relief, grounds  
21 for relief or the relief obtainable.

22 (b) The petition must be filed in the same proceeding in  
23 which the order or judgment was entered but is not a

1 continuation thereof. The petition must be supported by  
2 affidavit or other appropriate showing as to matters not of  
3 record. All parties to the petition shall be notified as  
4 provided by rule.

5 (c) Except as provided in Section 20b of the Adoption Act  
6 and Section 2-32 ~~3-32~~ of the Juvenile Court Act of 1987 ~~or in a~~  
7 ~~petition based upon Section 116-3 of the Code of Criminal~~  
8 ~~Procedure of 1963~~, the petition must be filed not later than 2  
9 years after the entry of the order or judgment. Time during  
10 which the person seeking relief is under legal disability or  
11 duress or the ground for relief is fraudulently concealed shall  
12 be excluded in computing the period of 2 years.

13 (d) The filing of a petition under this Section does not  
14 affect the order or judgment, or suspend its operation.

15 (e) Unless lack of jurisdiction affirmatively appears from  
16 the record proper, the vacation or modification of an order or  
17 judgment pursuant to the provisions of this Section does not  
18 affect the right, title or interest in or to any real or  
19 personal property of any person, not a party to the original  
20 action, acquired for value after the entry of the order or  
21 judgment but before the filing of the petition, nor affect any  
22 right of any person not a party to the original action under  
23 any certificate of sale issued before the filing of the  
24 petition, pursuant to a sale based on the order or judgment.

25 (f) Nothing contained in this Section affects any existing  
26 right to relief from a void order or judgment, or to employ any

1 existing method to procure that relief.

2 (g) This Section shall not be used to attack a criminal  
3 conviction.

4 (Source: P.A. 90-18, eff. 7-1-97; 90-27, eff. 1-1-98; 90-141,  
5 eff. 1-1-98; 90-655, eff. 7-30-98; revised 11-06-02.)