



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 1016

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1016 by replacing  
3 everything after the enacting clause with the following:

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,

1 or (ii) to review administrative decisions for which a  
2 statute provides that review shall be in the circuit or  
3 appellate court.

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

6 (c) All claims against the State for time unjustly  
7 served in prisons of this State or in a county jail when  
8 the person imprisoned received a pardon from the Governor  
9 stating that such pardon is issued on the ground of  
10 innocence of the crime for which he or she was imprisoned  
11 or he or she received a certificate of innocence from the  
12 Circuit Court as provided in Section 2-702 of the Code of  
13 Civil Procedure. The court shall make an award of \$50,000  
14 per year during which the person was wrongfully imprisoned  
15 and shall prorate that amount for a fraction of a year that  
16 the person was wrongfully imprisoned. The court shall fix  
17 attorney's fees not to exceed 25% of the award granted.  
18 The court shall include the number of years the person was  
19 imprisoned awaiting trial in its determination of the  
20 award. The court shall include an additional \$25,000 for  
21 each year served on parole, probation, or registered as a  
22 sex offender after imprisonment. ~~The, provided, the amount~~  
23 ~~of the award is at the discretion of the court; and~~  
24 ~~provided, the court shall make no award in excess of the~~  
25 ~~following amounts: for imprisonment of 5 years or less,~~  
26 ~~not more than \$85,350; for imprisonment of 14 years or~~

1 ~~less but over 5 years, not more than \$170,000; for~~  
2 ~~imprisonment of over 14 years, not more than \$199,150; and~~  
3 ~~provided further, the court shall fix attorney's fees not~~  
4 ~~to exceed 25% of the award granted. On or after the~~  
5 ~~effective date of this amendatory Act of the 95th General~~  
6 ~~Assembly,~~ the court shall annually adjust the maximum  
7 awards authorized by this subsection (c) to reflect the  
8 increase, if any, in the Consumer Price Index For All  
9 Urban Consumers for the previous calendar year, as  
10 determined by the United States Department of Labor,  
11 except that no annual increment may exceed 5%. For the  
12 annual adjustments, if the Consumer Price Index decreases  
13 during a calendar year, there shall be no adjustment for  
14 that calendar year. The transmission by the Prisoner  
15 Review Board or the clerk of the circuit court of the  
16 information described in Section 11(b) to the clerk of the  
17 Court of Claims is conclusive evidence of the validity of  
18 the claim. The changes made by Public Act 95-970 ~~this~~  
19 ~~amendatory Act of the 95th General Assembly~~ apply to all  
20 claims pending on or filed on or after September 22, 2008  
21 (the effective date of Public Act 95-970). The changes  
22 made by this amendatory Act of the 103rd General Assembly  
23 apply to all claims pending or filed on or after the  
24 effective date of this amendatory Act of the 103rd General  
25 Assembly.

26 (d) All claims against the State for damages in cases

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

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

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

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

24 (f) All claims pursuant to the Line of Duty  
25 Compensation Act. A claim under that Act must be heard and  
26 determined within one year after the application for that

1 claim is filed with the Court as provided in that Act.

2 (g) All claims filed pursuant to the Crime Victims  
3 Compensation Act.

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

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

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

14 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

15 Sec. 11. Filing claims.

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

1 just credits; and that claimant believes the facts stated in  
2 the petition to be true. The petition shall be verified, as to  
3 statements of facts, by the affidavit of the claimant, his  
4 agent, or attorney.

5 (b) Whenever a person has served a term of imprisonment  
6 and has received a pardon by the Governor stating that such  
7 pardon was issued on the ground of innocence of the crime for  
8 which he or she was imprisoned, the Prisoner Review Board  
9 shall transmit this information to the clerk of the Court of  
10 Claims, together with the claimant's current address. Whenever  
11 a person has served a term of imprisonment or has been  
12 incarcerated as a pretrial detainee and has received a  
13 certificate of innocence from the Circuit Court as provided in  
14 Section 2-702 of the Code of Civil Procedure, the clerk of the  
15 issuing Circuit Court shall transmit this information to the  
16 clerk of the Court of Claims, together with the claimant's  
17 current address. The clerk of the Court of Claims shall  
18 immediately docket the case for consideration by the Court of  
19 Claims, and shall provide notice to the claimant of such  
20 docketing together with all hearing dates and applicable  
21 deadlines. The Court of Claims shall hear the case and render a  
22 decision within 90 days after its docketing.

23 (Source: P.A. 95-970, eff. 9-22-08; 96-328, eff. 8-11-09.)

24 Section 10. The Code of Civil Procedure is amended by  
25 changing Section 2-702 as follows:

1 (735 ILCS 5/2-702)

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

5 (a) The General Assembly finds and declares that innocent  
6 persons who have been wrongly charged with or convicted of  
7 crimes in Illinois and subsequently have been incarcerated  
8 prior to trial or imprisoned have been frustrated in seeking  
9 legal redress due to a variety of substantive and technical  
10 obstacles in the law and that such persons should have an  
11 available avenue to obtain a finding of innocence so that they  
12 may obtain relief through a petition in the Court of Claims.  
13 The General Assembly further finds misleading the current  
14 legal nomenclature which compels an innocent person to seek a  
15 pardon for being wrongfully incarcerated. It is the intent of  
16 the General Assembly that the court, in exercising its  
17 discretion as permitted by law regarding the weight and  
18 admissibility of evidence submitted pursuant to this Section,  
19 shall, in the interest of justice, give due consideration to  
20 difficulties of proof caused by the passage of time, the death  
21 or unavailability of witnesses, the destruction of evidence or  
22 other factors not caused by such persons or those acting on  
23 their behalf.

24 (b) Any person criminally prosecuted and incarcerated  
25 prior to trial or convicted and subsequently imprisoned for



1 one or more felonies by the State of Illinois which he or she  
2 did not commit may, under the conditions hereinafter provided,  
3 file a petition for certificate of innocence in the circuit  
4 court of the county in which the person was convicted or  
5 incarcerated prior to trial. The petition shall request a  
6 certificate of innocence finding that the petitioner was  
7 innocent of all offenses for which he or she was incarcerated.

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

12 (1) he or she has been convicted of one or more  
13 felonies by the State of Illinois and subsequently  
14 sentenced to a term of imprisonment, and has served all or  
15 any part of the sentence, or he or she was incarcerated  
16 prior to trial for 30 days or longer and the case resulted  
17 in a dismissal or acquittal of the charge or charges, but  
18 did not result in a conviction for a lesser included  
19 offense; and

20 (2) if convicted, his or her judgment of conviction  
21 was reversed or vacated, and the indictment or information  
22 dismissed or, if a new trial was ordered, either he or she  
23 was found not guilty at the new trial or he or she was not  
24 retried and the indictment or information dismissed; or  
25 the statute, or application thereof, on which the  
26 indictment or information was based violated the

1 Constitution of the United States or the State of  
2 Illinois; and

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

5 (d) The petition shall state facts in sufficient detail to  
6 permit the court to find that the petitioner is likely to  
7 succeed at trial in proving that the petitioner is innocent of  
8 the alleged offenses for which he or she was incarcerated  
9 ~~charged in the indictment or information~~ or his or her acts or  
10 omissions charged in the indictment or information did not  
11 constitute a felony or misdemeanor against the State of  
12 Illinois, and the petitioner did not by his or her own conduct  
13 voluntarily cause or bring about his or her conviction. The  
14 petition shall be verified by 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 was had. The Attorney General and the State's  
18 Attorney of the county where the conviction was had shall have  
19 the right to intervene as parties.

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

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

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

7 (2) (A) the judgment of conviction was reversed or  
8 vacated, and the indictment or information dismissed or,  
9 if a new trial was ordered, either the petitioner was  
10 found not guilty at the new trial or the petitioner was not  
11 retried and the indictment or information dismissed; or

12 (B) the statute, or application thereof, on which the  
13 indictment or information was based violated the  
14 Constitution of the United States or the State of  
15 Illinois;

16 (3) the petitioner is innocent of the offenses for  
17 which he or she was incarcerated ~~charged in the indictment~~  
18 ~~or information~~ or his or her acts or omissions for which he  
19 or she was incarcerated ~~charged in the indictment or~~  
20 ~~information~~ did not constitute a felony or misdemeanor  
21 against the State; and

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

24 (g-5) If the petitioner was incarcerated prior to trial  
25 for 30 days or longer but not convicted of any of the charged  
26 offenses or a lesser included offense, in order to obtain a

1 certificate of innocence, the petitioner must prove by a  
2 preponderance of evidence that:

3 (1) the petitioner was incarcerated prior to trial for  
4 30 days or longer in a prosecution that resulted in an  
5 acquittal or dismissal;

6 (2) the prosecution did not result in a conviction of  
7 a lesser included offense;

8 (3) the petitioner is innocent of the charges on which  
9 the petitioner's pretrial detention was based, or the  
10 charges did not constitute a felony or misdemeanor; and

11 (4) the petitioner did not by his or her own conduct  
12 voluntarily cause or bring about the charges that resulted  
13 in his or her pretrial incarceration.

14 (h) If the court finds that the petitioner is entitled to a  
15 judgment, it shall enter a certificate of innocence finding  
16 that the petitioner was innocent of all offenses for which he  
17 or she was incarcerated. Upon entry of the certificate of  
18 innocence or pardon from the Governor stating that such pardon  
19 was issued on the ground of innocence of the crime for which he  
20 or she was incarcerated prior to trial or imprisoned, (1) the  
21 clerk of the court shall transmit a copy of the certificate of  
22 innocence to the clerk of the Court of Claims, together with  
23 the claimant's current address; and (2) the court shall enter  
24 an order expunging the record of arrest from the official  
25 records of the arresting authority and order that the records  
26 of the clerk of the circuit court and the Illinois State Police

1 be sealed until further order of the court upon good cause  
2 shown or as otherwise provided herein, and the name of the  
3 defendant obliterated from the official index requested to be  
4 kept by the circuit court clerk under Section 16 of the Clerks  
5 of Courts Act in connection with the arrest and conviction for  
6 the offense but the order shall not affect any index issued by  
7 the circuit court clerk before the entry of the order. The  
8 court shall enter the expungement order regardless of whether  
9 the petitioner has prior criminal convictions.

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

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

21 (i) Any person seeking a certificate of innocence under  
22 this Section based on the dismissal of an indictment or  
23 information or acquittal that occurred before September 22,  
24 2008 (the effective date of Public Act 95-970)~~this amendatory~~  
25 ~~Act of the 95th General Assembly~~ shall file his or her petition  
26 within 2 years after the September 22, 2008 (effective date of

1 ~~this amendatory Act of the 95th General Assembly~~. Any person  
2 seeking a certificate of innocence under this Section based on  
3 the dismissal of an indictment or information or acquittal  
4 that occurred on or after September 22, 2008~~the effective date~~  
5 ~~of this amendatory Act of the 95th General Assembly~~ shall file  
6 his or her petition within 2 years after the dismissal.

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

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

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law."