



Rep. Mary E. Flowers

Filed: 3/6/2023

10300HB1016ham002

LRB103 04849 LNS 58572 a

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, in a county jail, on
8 parole, on intensive supervision probation, or on the sex
9 offender registry, when the unjustly convicted person
10 ~~imprisoned~~ received a pardon from the Governor stating
11 that such pardon is issued on the ground of innocence of
12 the crime for which he or she was convicted ~~imprisoned~~ or
13 he or she received a certificate of innocence from the
14 Circuit Court as provided in Section 2-702 of the Code of
15 Civil Procedure. The court shall make an award of \$50,000
16 per year, and prorated for any partial year, during which
17 the person was wrongfully incarcerated in a State
18 correctional institution or in a county jail, including
19 the time the person was incarcerated awaiting trial, and
20 \$25,000 for each year, and prorated for any partial year,
21 during which the person was wrongfully on parole,
22 wrongfully on intensive supervision probation, or was
23 wrongfully required to register as a sex offender. In
24 addition, the Circuit Court shall make an award of
25 reasonable attorney's fees, costs, and expenses in the
26 amount determined by the Circuit Court after awarding a

1 certificate of innocence under Section 2-702 of the Code
2 of Civil Procedure. The ; ~~provided, the amount of the~~
3 ~~award is at the discretion of the court; and provided, the~~
4 ~~court shall make no award in excess of the following~~
5 ~~amounts: for imprisonment of 5 years or less, not more~~
6 ~~than \$85,350; for imprisonment of 14 years or less but~~
7 ~~over 5 years, not more than \$170,000; for imprisonment of~~
8 ~~over 14 years, not more than \$199,150; and provided~~
9 ~~further, the court shall fix attorney's fees not to exceed~~
10 ~~25% of the award granted. On or after the effective date of~~
11 ~~this amendatory Act of the 95th General Assembly, the~~
12 court shall annually adjust the ~~maximum~~ awards authorized
13 by this subsection (c) to reflect the increase, if any, in
14 the Consumer Price Index For All Urban Consumers for the
15 previous calendar year, as determined by the United States
16 Department of Labor, except that no annual increment may
17 exceed 5%. For the annual adjustments, if the Consumer
18 Price Index decreases during a calendar year, there shall
19 be no adjustment for that calendar year. The transmission
20 by the Prisoner Review Board or the clerk of the circuit
21 court of the information described in Section 11(b) to the
22 clerk of the Court of Claims is conclusive evidence of the
23 validity of the claim. The changes made by this amendatory
24 Act of the 95th General Assembly apply to all claims
25 pending on or filed on or after the effective date. The
26 changes made by this amendatory Act of the 103rd General

1 Assembly apply to all claims pending or filed on or after
2 the effective date of this amendatory Act of the 103rd
3 General Assembly.

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

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

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

26 (e) All claims for recoupment made by the State of

1 Illinois against any claimant.

2 (f) All claims pursuant to the Line of Duty
3 Compensation Act. A claim under that Act must be heard and
4 determined within one year after the application for that
5 claim is filed with the Court as provided in that Act.

6 (g) All claims filed pursuant to the Crime Victims
7 Compensation Act.

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

13 (i) All claims authorized by subsection (a) of Section
14 10-55 of the Illinois Administrative Procedure Act for the
15 expenses incurred by a party in a contested case on the
16 administrative level.

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

18 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

19 Sec. 11. Filing claims.

20 (a) Except as otherwise provided in subsection (b) of this
21 Section and subsection (4) of Section 24, the claimant shall
22 in all cases set forth fully in his petition the claim, the
23 action thereon, if any, on behalf of the State, what persons
24 are owners thereof or interested therein, when and upon what
25 consideration such persons became so interested; that no

1 assignment or transfer of the claim or any part thereof or
2 interest therein has been made, except as stated in the
3 petition; that the claimant is justly entitled to the amount
4 therein claimed from the State of Illinois, after allowing all
5 just credits; and that claimant believes the facts stated in
6 the petition to be true. The petition shall be verified, as to
7 statements of facts, by the affidavit of the claimant, his
8 agent, or attorney.

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

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

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

3 (735 ILCS 5/2-702)

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

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

1 (b) Any person who is convicted or adjudicated a
2 delinquent and subsequently serves any part of a sentence of
3 incarceration in a State correctional institution or in a
4 county jail, of parole, of intensive supervision probation, or
5 of registration as a sex offender ~~imprisoned~~ for one or more
6 felonies by the State of Illinois which he or she did not
7 commit may, under the conditions hereinafter provided, file a
8 petition for certificate of innocence in the circuit court of
9 the county in which the person was convicted or adjudicated a
10 delinquent. The petition shall request a certificate of
11 innocence finding that the petitioner was innocent of one or
12 more ~~all~~ offenses for which he or she was convicted
13 incarcerated.

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

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

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

1 new trial or he or she was not retried and the indictment,
2 ~~or~~ information, or petition dismissed; or the statute, or
3 application thereof, on which the indictment or
4 information was based violated the Constitution of the
5 United States or the State of Illinois; and

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

8 (d) The petition shall state facts in sufficient detail to
9 permit the court to find that the petitioner is likely to
10 succeed at trial in proving that the petitioner is innocent of
11 the alleged offenses for which he or she was convicted or
12 adjudicated a delinquent ~~charged in the indictment or~~
13 ~~information or his or her acts or omissions charged in the~~
14 ~~indictment or information did not constitute a felony or~~
15 ~~misdemeanor against the State of Illinois~~, and the petitioner
16 did not by his or her own conduct voluntarily cause or bring
17 about his or her conviction or juvenile delinquency
18 adjudication. Neither a guilty plea nor a confession
19 constitutes conduct causing or bringing about one's conviction
20 or delinquency adjudication. The petition shall be verified by
21 the petitioner.

22 (e) A copy of the petition shall be served on the Attorney
23 General and the State's Attorney of the county where the
24 conviction or juvenile delinquency adjudication was had. The
25 Attorney General and the State's Attorney of the county where
26 the conviction or juvenile delinquency adjudication was had

1 shall have the right to intervene as parties.

2 (f) In any hearing seeking a certificate of innocence, the
3 court may take judicial notice of prior sworn testimony or
4 evidence admitted in the criminal or juvenile delinquency
5 proceedings related to the convictions or adjudications which
6 resulted in the alleged wrongful incarceration, if the
7 petitioner was either represented by counsel at such prior
8 proceedings or the right to counsel was knowingly waived.

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

11 (1) the petitioner was convicted or adjudicated a
12 delinquent of one or more felonies by the State of
13 Illinois and subsequently sentenced to a term of
14 imprisonment, and has served all or any part of the
15 sentence;

16 (2) (A) the judgment of conviction or adjudication was
17 reversed or vacated, and the indictment or information
18 dismissed or, if a new trial was ordered, either the
19 petitioner was found not guilty at the new trial or the
20 petitioner was not retried and the indictment, ~~or~~
21 information, or petition dismissed; or (B) the statute, or
22 application thereof, on which the indictment, ~~or~~
23 information, or petition was based violated the
24 Constitution of the United States or the State of
25 Illinois;

26 (3) the petitioner is innocent of one or more of the

1 offenses for which he or she was convicted or adjudicated
2 a delinquent ~~charged in the indictment or information~~ or
3 his or her acts or omissions charged in the indictment or
4 information did not constitute a felony or misdemeanor
5 against the State; and

6 (4) the petitioner did not by his or her own conduct
7 voluntarily cause or bring about his or her conviction or
8 juvenile delinquency adjudication. Neither a guilty plea
9 nor a confession constitutes conduct causing or bringing
10 about one's conviction or delinquency adjudication.

11 (h) If the court finds that the petitioner is entitled to a
12 judgment, it shall enter a certificate of innocence finding
13 that the petitioner was innocent of one or more ~~all~~ offenses
14 for which he or she was convicted or adjudicated a delinquent.
15 The court shall also make a determination, subject to proof by
16 the claimant, of the reasonable attorney's fees, costs, and
17 expenses incurred by the claimant in connection with obtaining
18 the certificate of innocence under this Section ~~incarcerated~~.
19 Upon entry of the certificate of innocence or pardon from the
20 Governor stating that such pardon was issued on the ground of
21 innocence of the crime for which he or she was convicted or
22 adjudicated a delinquent ~~imprisoned~~, (1) the clerk of the
23 court shall transmit a copy of the certificate of innocence to
24 the clerk of the Court of Claims, together with the claimant's
25 current address; and (2) the court shall enter an order
26 expunging the record of arrest from the official records of

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

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

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

25 (i) Any person seeking a certificate of innocence under
26 this Section based on the dismissal of an indictment or

1 information or acquittal that occurred before the effective
2 date of this amendatory Act of the 95th General Assembly shall
3 file his or her petition within 2 years after the effective
4 date of this amendatory Act of the 95th General Assembly. Any
5 person seeking a certificate of innocence under this Section
6 based on the dismissal of an indictment or information or
7 acquittal that occurred on or after the effective date of this
8 amendatory Act of the 95th General Assembly shall file his or
9 her petition within 2 years after the dismissal or acquittal.
10 Any person seeking a certificate of innocence under this
11 Section based on the dismissal of a juvenile delinquency
12 petition or an acquittal on such petition that occurred before
13 the effective date of this amendatory Act of the 103rd General
14 Assembly, including a petitioner whose petition was denied
15 solely on the basis that this Section did not formerly apply to
16 juvenile delinquency adjudications, shall file his or her
17 petition within 4 years after the effective date of this
18 amendatory Act of the 103rd General Assembly. Any person
19 seeking a certificate of innocence under this Section based on
20 the dismissal of a juvenile delinquency petition or an
21 acquittal on such petition that occurred on or after the
22 effective date of this amendatory Act of the 103rd General
23 Assembly shall file his or her petition within 2 years after
24 the dismissal or acquittal.

25 (j) The decision to grant or deny a certificate of
26 innocence shall be binding only with respect to claims filed

1 in the Court of Claims and shall not have a res judicata effect
2 on any other proceedings.

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

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".