



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3771

Introduced 2/9/2024, by Sen. Ram Villivalam

SYNOPSIS AS INTRODUCED:

110 ILCS 947/62
735 ILCS 5/2-702

Amends the Higher Education Student Assistance Act with respect to grants for exonerated persons. Provides that a grant applicant need not be a resident of this State at the time of enrollment. Provides that, beginning no later than the 2025-2026 academic year, if an exonerated person has been found by the Illinois Student Assistance Commission to qualify for a grant and the exonerated person has not yet exhausted the benefits for which the exonerated person is eligible, the exonerated person may designate one or more dependents to use any unexpended portion of the benefits for which the exonerated person is eligible, up to the total benefit for which the exonerated person is eligible. Provides that the combined benefit used by the exonerated person and any designated dependents may not exceed the total benefit for which the exonerated person is eligible. Provides that if funding is insufficient to serve all applicants, the Commission may prioritize applicants who have been exonerated over applicants who are dependents of exonerated individuals. Amends the Code of Civil Procedure. In provisions concerning a petition for a certificate of innocence, provides that the clerk of the circuit court shall provide to a person whose records were expunged and sealed information about grants for exonerated persons and their dependents under the Higher Education Student Assistance Act and the address of the Internet website of the Commission, where additional information about the grants may be obtained.

LRB103 36354 RJT 66453 b

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Higher Education Student Assistance Act is
5 amended by changing Section 62 as follows:

6 (110 ILCS 947/62)

7 Sec. 62. Grants for exonerated persons and their
8 dependents.

9 (a) In this Section:

10 "Dependent" means any spouse, natural child, legally
11 adopted child, or child in the legal custody of an individual.

12 "Exonerated person" means an individual who has received a
13 pardon from the Governor of the State of Illinois stating that
14 such a pardon is issued on the grounds of innocence of the
15 crime for which he or she was imprisoned or an individual who
16 has received a certificate of innocence from a circuit court
17 pursuant to Section 2-702 of the Code of Civil Procedure.

18 "Satisfactory academic progress" means the qualified
19 applicant's maintenance of minimum standards of academic
20 performance, consistent with requirements for maintaining
21 federal financial aid eligibility, as determined by the
22 institution of higher learning.

23 (b) Subject to a separate appropriation for this purpose,

1 the Commission shall, each year, receive and consider
2 applications for grant assistance under this Section.
3 Recipients of grants issued by the Commission in accordance
4 with this Section must be exonerated persons or, as provided
5 in subsection (c-5) of this Section, their dependents.
6 Provided that the recipient is maintaining satisfactory
7 academic progress and subject to subsection (c-5) of this
8 Section, the funds from the grant may be used to pay up to 8
9 semesters or 12 quarters of full payment of tuition and
10 mandatory fees at any public university or public community
11 college located in this State for either full or part-time
12 study. This benefit may be used for undergraduate or graduate
13 study.

14 In addition, an exonerated person or, as provided in
15 subsection (c-5) of this Section, a dependent who has not yet
16 received a high school diploma or a State of Illinois High
17 School Diploma and completes a high school equivalency
18 preparation course through an Illinois Community College
19 Board-approved provider may use grant funds to pay costs
20 associated with obtaining a State of Illinois High School
21 Diploma, including payment of the cost of the high school
22 equivalency test and up to one retest on each test module, and
23 any additional fees that may be required in order to obtain a
24 State of Illinois High School Diploma or an official
25 transcript of test scores after successful completion of the
26 high school equivalency test.

1 (c) An applicant for a grant under this Section need not
2 demonstrate financial need to qualify for the benefits and
3 need not be a resident of this State at the time of enrollment.

4 (c-5) Beginning no later than the 2025-2026 academic year,
5 if an exonerated person has been found by the Commission to
6 qualify for a grant under this Section and the exonerated
7 person has not yet exhausted the benefit for which the
8 exonerated person is eligible under subsection (b), the
9 exonerated person may designate one or more dependents to use
10 any unexpended portion of the benefit for which the exonerated
11 person is eligible, up to the total benefit for which the
12 exonerated person is eligible under subsection (b). The
13 combined benefit used by the exonerated person and any
14 designated dependents may not exceed the total benefit for
15 which the exonerated person is eligible under subsection (b).
16 If funding is insufficient to serve all applicants, the
17 Commission may prioritize applicants who have been exonerated
18 over applicants who are dependents of exonerated persons.

19 (d) The Commission may adopt any rules necessary to
20 implement and administer this Section.

21 (Source: P.A. 102-1100, eff. 1-1-23.)

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

24 (735 ILCS 5/2-702)

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

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

22 (b) Any person convicted and subsequently imprisoned for
23 one or more felonies by the State of Illinois which he or she
24 did not commit may, under the conditions hereinafter provided,
25 file a petition for certificate of innocence in the circuit
26 court of the county in which the person was convicted. The

1 petition shall request a certificate of innocence finding that
2 the petitioner was innocent of all offenses for which he or she
3 was incarcerated.

4 (c) In order to present the claim for certificate of
5 innocence of an unjust conviction and imprisonment, the
6 petitioner must attach to his or her petition documentation
7 demonstrating that:

8 (1) he or she has been convicted of one or more
9 felonies by the State of Illinois and subsequently
10 sentenced to a term of imprisonment, and has served all or
11 any part of the sentence; and

12 (2) his or her judgment of conviction was reversed or
13 vacated, and the indictment or information dismissed or,
14 if a new trial was ordered, either he or she was found not
15 guilty at the new trial or he or she was not retried and
16 the indictment or information dismissed; or the statute,
17 or application thereof, on which the indictment or
18 information was based violated the Constitution of the
19 United States or the State of Illinois; and

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

22 (d) The petition shall state facts in sufficient detail to
23 permit the court to find that the petitioner is likely to
24 succeed at trial in proving that the petitioner is innocent of
25 the offenses charged in the indictment or information or his
26 or her acts or omissions charged in the indictment or

1 information did not constitute a felony or misdemeanor against
2 the State of Illinois, and the petitioner did not by his or her
3 own conduct voluntarily cause or bring about his or her
4 conviction. The petition shall be verified by the petitioner.

5 (e) A copy of the petition shall be served on the Attorney
6 General and the State's Attorney of the county where the
7 conviction was had. The Attorney General and the State's
8 Attorney of the county where the conviction was had shall have
9 the right to intervene as parties.

10 (f) In any hearing seeking a certificate of innocence, the
11 court may take judicial notice of prior sworn testimony or
12 evidence admitted in the criminal proceedings related to the
13 convictions which resulted in the alleged wrongful
14 incarceration, if the petitioner was either represented by
15 counsel at such prior proceedings or the right to counsel was
16 knowingly waived.

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

19 (1) the petitioner was 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;

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

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

6 (3) the petitioner is innocent of the offenses charged
7 in the indictment or information or his or her acts or
8 omissions charged in the indictment or information did not
9 constitute a felony or misdemeanor against the State; and

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

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

1 obliterated from the official index requested to be kept by
2 the circuit court clerk under Section 16 of the Clerks of
3 Courts Act in connection with the arrest and conviction for
4 the offense but the order shall not affect any index issued by
5 the circuit court clerk before the entry of the order. The
6 court shall enter the expungement order regardless of whether
7 the petitioner has prior criminal convictions.

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

16 Upon entry of the order of expungement, the clerk of the
17 circuit court shall promptly mail a copy of the order to the
18 person whose records were expunged and sealed. The clerk shall
19 also provide to the person information about grants for
20 exonerated persons and their dependents under Section 62 of
21 the Higher Education Student Assistance Act and the address of
22 the Internet website of the Illinois Student Assistance
23 Commission, where additional information about the grants may
24 be obtained.

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.

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

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