



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 230

2 AMENDMENT NO. _____. Amend House Bill 230, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Department of Commerce and Economic
6 Opportunity Law of the Civil Administrative Code of Illinois is
7 amended by adding Section 605-416 as follows:

8 (20 ILCS 605/605-416 new)

9 Sec. 605-416. Persons unjustly imprisoned; job training
10 and continuing education. The Department shall establish an
11 individualized job training and continuing education program
12 for each person if he or she has been discharged from a prison
13 of this State; and if he or she has been wrongfully accused of
14 a crime for which he or she was imprisoned; and if the person
15 received a pardon from the Governor stating that such pardon is
16 issued on the ground of innocence of the crime for he or she

1 was imprisoned or he or she has received a certificate of
2 innocence from the Prisoner Review Board.

3 Section 10. The Court of Claims Act is amended by changing
4 Sections 8, 11, 22, and 24 and by adding Section 24.5 as
5 follows:

6 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

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

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

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

21 (c) All claims against the State for time unjustly served
22 in prisons of this State when ~~where~~ the person ~~persons~~
23 imprisoned was wrongfully accused of the crime for which he or
24 she was imprisoned and the accused received ~~shall receive~~ a

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

1 changes made by this amendatory Act of the 95th General
2 Assembly apply to all claims pending on or filed on or after
3 the effective date. ~~The changes made by Public Act 89-689 apply~~
4 ~~to all claims filed on or after January 1, 1995 that are~~
5 ~~pending on December 31, 1996 and all claims filed on or after~~
6 ~~December 31, 1996.~~

7 (d) All claims against the State for damages in cases
8 sounding in tort, if a like cause of action would lie against a
9 private person or corporation in a civil suit, and all like
10 claims sounding in tort against the Medical Center Commission,
11 the Board of Trustees of the University of Illinois, the Board
12 of Trustees of Southern Illinois University, the Board of
13 Trustees of Chicago State University, the Board of Trustees of
14 Eastern Illinois University, the Board of Trustees of Governors
15 State University, the Board of Trustees of Illinois State
16 University, the Board of Trustees of Northeastern Illinois
17 University, the Board of Trustees of Northern Illinois
18 University, the Board of Trustees of Western Illinois
19 University, or the Board of Trustees of the Illinois
20 Mathematics and Science Academy; provided, that an award for
21 damages in a case sounding in tort, other than certain cases
22 involving the operation of a State vehicle described in this
23 paragraph, shall not exceed the sum of \$100,000 to or for the
24 benefit of any claimant. The \$100,000 limit prescribed by this
25 Section does not apply to an award of damages in any case
26 sounding in tort arising out of the operation by a State

1 employee of a vehicle owned, leased or controlled by the State.
2 The defense that the State or the Medical Center Commission or
3 the Board of Trustees of the University of Illinois, the Board
4 of Trustees of Southern Illinois University, the Board of
5 Trustees of Chicago State University, the Board of Trustees of
6 Eastern Illinois University, the Board of Trustees of Governors
7 State University, the Board of Trustees of Illinois State
8 University, the Board of Trustees of Northeastern Illinois
9 University, the Board of Trustees of Northern Illinois
10 University, the Board of Trustees of Western Illinois
11 University, or the Board of Trustees of the Illinois
12 Mathematics and Science Academy is not liable for the
13 negligence of its officers, agents, and employees in the course
14 of their employment is not applicable to the hearing and
15 determination of such claims.

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

18 (f) All claims pursuant to the Line of Duty Compensation
19 Act.

20 (g) All claims filed pursuant to the Crime Victims
21 Compensation Act.

22 (h) All claims pursuant to the Illinois National
23 Guardsman's Compensation Act.

24 (i) All claims authorized by subsection (a) of Section
25 10-55 of the Illinois Administrative Procedure Act for the
26 expenses incurred by a party in a contested case on the

1 administrative level.

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

3 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

4 Sec. 11. Filing claims.

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

19 (b) Whenever a person has served a term of imprisonment and
20 has received a pardon by the Governor stating that such pardon
21 was issued on the ground of innocence of the crime for which he
22 or she was imprisoned, or a certificate of innocence from the
23 Prisoner Review Board, the Governor shall transmit this
24 information to the clerk of the Court of Claims. The clerk of
25 the Court of Claims shall immediately docket the case for

1 consideration by the Court of Claims. The Court of Claims shall
2 hear the case and render a decision within 90 days after its
3 docketing. The transmission by the Governor of the information
4 described in this subsection (b) to the clerk of the Court of
5 Claims is conclusive evidence of the validity of the claim.

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

7 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

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

12 (a) All claims arising out of a contract must be filed
13 within 5 years after it first accrues, saving to minors, and
14 persons under legal disability at the time the claim accrues,
15 in which cases the claim must be filed within 5 years from the
16 time the disability ceases.

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

22 (c) All claims arising under paragraph (c) of Section 8 of
23 this Act must be automatically heard by the court ~~filed~~ within
24 120 days ~~2 years~~ after the person unjustly imprisoned ~~asserting~~
25 ~~such claim~~ is discharged from prison without the person

1 unjustly imprisoned being required to file a petition under
2 Section 11 of this Act ~~, or is granted a pardon by the~~
3 ~~Governor, whichever occurs later, except as otherwise provided~~
4 ~~by the Crime Victims Compensation Act.~~

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

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

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

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

23 (h) All other claims must be filed within 2 years after it
24 first accrues, saving to minors, and persons under legal
25 disability at the time the claim accrues, in which case the
26 claim must be filed within 2 years from the time the disability

1 ceases.

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

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

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

10 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

11 Sec. 24. Payment of awards.

12 (1) From funds appropriated by the General Assembly for the
13 purposes of this Section the Court may direct immediate payment
14 of:

15 (a) All claims arising solely as a result of the
16 lapsing of an appropriation out of which the obligation
17 could have been paid.

18 (b) All claims pursuant to the "Law Enforcement
19 Officers and Firemen Compensation Act", approved September
20 30, 1969, as amended.

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

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

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

3 (2) The court may, from funds specifically appropriated
4 from the General Revenue Fund for this purpose, direct the
5 payment of awards less than \$50,000 solely as a result of the
6 lapsing of an appropriation originally made from any fund held
7 by the State Treasurer. For any such award paid from the
8 General Revenue Fund, the court shall thereafter seek an
9 appropriation from the fund from which the liability originally
10 accrued in reimbursement of the General Revenue Fund.

11 (3) From funds appropriated by the General Assembly for the
12 purposes of paying claims under paragraph (c) of Section 8, the
13 court must direct payment of each claim and the payment must be
14 received by the claimant within 60 days after the date that the
15 funds are appropriated for that purpose.

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

17 (705 ILCS 505/24.5 new)

18 Sec. 24.5. Applicability. This amendatory Act of the 95th
19 General Assembly shall apply to causes of action filed on or
20 after its effective date.

21 Section 15. The Unified Code of Corrections is amended by
22 changing Section 3-3-2 and by adding Section 3-3-13.1 as
23 follows:

1 (730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

2 Sec. 3-3-2. Powers and Duties.

3 (a) The Parole and Pardon Board is abolished and the term
4 "Parole and Pardon Board" as used in any law of Illinois, shall
5 read "Prisoner Review Board." After the effective date of this
6 amendatory Act of 1977, the Prisoner Review Board shall provide
7 by rule for the orderly transition of all files, records, and
8 documents of the Parole and Pardon Board and for such other
9 steps as may be necessary to effect an orderly transition and
10 shall:

11 (1) hear by at least one member and through a panel of
12 at least 3 members decide, cases of prisoners who were
13 sentenced under the law in effect prior to the effective
14 date of this amendatory Act of 1977, and who are eligible
15 for parole;

16 (2) hear by at least one member and through a panel of
17 at least 3 members decide, the conditions of parole and the
18 time of discharge from parole, impose sanctions for
19 violations of parole, and revoke parole for those sentenced
20 under the law in effect prior to this amendatory Act of
21 1977; provided that the decision to parole and the
22 conditions of parole for all prisoners who were sentenced
23 for first degree murder or who received a minimum sentence
24 of 20 years or more under the law in effect prior to
25 February 1, 1978 shall be determined by a majority vote of
26 the Prisoner Review Board;

1 (3) hear by at least one member and through a panel of
2 at least 3 members decide, the conditions of mandatory
3 supervised release and the time of discharge from mandatory
4 supervised release, impose sanctions for violations of
5 mandatory supervised release, and revoke mandatory
6 supervised release for those sentenced under the law in
7 effect after the effective date of this amendatory Act of
8 1977;

9 (3.5) hear by at least one member and through a panel
10 of at least 3 members decide, the conditions of mandatory
11 supervised release and the time of discharge from mandatory
12 supervised release, to impose sanctions for violations of
13 mandatory supervised release and revoke mandatory
14 supervised release for those serving extended supervised
15 release terms pursuant to paragraph (4) of subsection (d)
16 of Section 5-8-1;

17 (4) hear by at least 1 member and through a panel of at
18 least 3 members, decide cases brought by the Department of
19 Corrections against a prisoner in the custody of the
20 Department for alleged violation of Department rules with
21 respect to good conduct credits pursuant to Section 3-6-3
22 of this Code in which the Department seeks to revoke good
23 conduct credits, if the amount of time at issue exceeds 30
24 days or when, during any 12 month period, the cumulative
25 amount of credit revoked exceeds 30 days except where the
26 infraction is committed or discovered within 60 days of

1 scheduled release. In such cases, the Department of
2 Corrections may revoke up to 30 days of good conduct
3 credit. The Board may subsequently approve the revocation
4 of additional good conduct credit, if the Department seeks
5 to revoke good conduct credit in excess of thirty days.
6 However, the Board shall not be empowered to review the
7 Department's decision with respect to the loss of 30 days
8 of good conduct credit for any prisoner or to increase any
9 penalty beyond the length requested by the Department;

10 (5) hear by at least one member and through a panel of
11 at least 3 members decide, the release dates for certain
12 prisoners sentenced under the law in existence prior to the
13 effective date of this amendatory Act of 1977, in
14 accordance with Section 3-3-2.1 of this Code;

15 (6) hear by at least one member and through a panel of
16 at least 3 members decide, all requests for pardon,
17 reprieve or commutation, and make confidential
18 recommendations to the Governor;

19 (7) comply with the requirements of the Open Parole
20 Hearings Act;

21 (8) hear by at least one member and, through a panel of
22 at least 3 members, decide cases brought by the Department
23 of Corrections against a prisoner in the custody of the
24 Department for court dismissal of a frivolous lawsuit
25 pursuant to Section 3-6-3(d) of this Code in which the
26 Department seeks to revoke up to 180 days of good conduct

1 credit, and if the prisoner has not accumulated 180 days of
2 good conduct credit at the time of the dismissal, then all
3 good conduct credit accumulated by the prisoner shall be
4 revoked; ~~and~~

5 (9) hear by at least 3 members, and, through a panel of
6 at least 3 members, decide whether to grant certificates of
7 relief from disabilities or certificates of good conduct as
8 provided in Article 5.5 of Chapter V; and -

9 (10) hear by at least one member and through a panel of
10 at least 3 members all requests for a certificate of
11 innocence and make a recommended decision to the Governor
12 as provided in Section 3-3-13.1 of this Code.

13 (a-5) The Prisoner Review Board, with the cooperation of
14 and in coordination with the Department of Corrections and the
15 Department of Central Management Services, shall implement a
16 pilot project in 3 correctional institutions providing for the
17 conduct of hearings under paragraphs (1) and (4) of subsection
18 (a) of this Section through interactive video conferences. The
19 project shall be implemented within 6 months after the
20 effective date of this amendatory Act of 1996. Within 6 months
21 after the implementation of the pilot project, the Prisoner
22 Review Board, with the cooperation of and in coordination with
23 the Department of Corrections and the Department of Central
24 Management Services, shall report to the Governor and the
25 General Assembly regarding the use, costs, effectiveness, and
26 future viability of interactive video conferences for Prisoner

1 Review Board hearings.

2 (b) Upon recommendation of the Department the Board may
3 restore good conduct credit previously revoked.

4 (c) The Board shall cooperate with the Department in
5 promoting an effective system of parole and mandatory
6 supervised release.

7 (d) The Board shall promulgate rules for the conduct of its
8 work, and the Chairman shall file a copy of such rules and any
9 amendments thereto with the Director and with the Secretary of
10 State.

11 (e) The Board shall keep records of all of its official
12 actions and shall make them accessible in accordance with law
13 and the rules of the Board.

14 (f) The Board or one who has allegedly violated the
15 conditions of his parole or mandatory supervised release may
16 require by subpoena the attendance and testimony of witnesses
17 and the production of documentary evidence relating to any
18 matter under investigation or hearing. The Chairman of the
19 Board may sign subpoenas which shall be served by any agent or
20 public official authorized by the Chairman of the Board, or by
21 any person lawfully authorized to serve a subpoena under the
22 laws of the State of Illinois. The attendance of witnesses, and
23 the production of documentary evidence, may be required from
24 any place in the State to a hearing location in the State
25 before the Chairman of the Board or his designated agent or
26 agents or any duly constituted Committee or Subcommittee of the

1 Board. Witnesses so summoned shall be paid the same fees and
2 mileage that are paid witnesses in the circuit courts of the
3 State, and witnesses whose depositions are taken and the
4 persons taking those depositions are each entitled to the same
5 fees as are paid for like services in actions in the circuit
6 courts of the State. Fees and mileage shall be vouchered for
7 payment when the witness is discharged from further attendance.

8 In case of disobedience to a subpoena, the Board may
9 petition any circuit court of the State for an order requiring
10 the attendance and testimony of witnesses or the production of
11 documentary evidence or both. A copy of such petition shall be
12 served by personal service or by registered or certified mail
13 upon the person who has failed to obey the subpoena, and such
14 person shall be advised in writing that a hearing upon the
15 petition will be requested in a court room to be designated in
16 such notice before the judge hearing motions or extraordinary
17 remedies at a specified time, on a specified date, not less
18 than 10 nor more than 15 days after the deposit of the copy of
19 the written notice and petition in the U.S. mails addressed to
20 the person at his last known address or after the personal
21 service of the copy of the notice and petition upon such
22 person. The court upon the filing of such a petition, may order
23 the person refusing to obey the subpoena to appear at an
24 investigation or hearing, or to there produce documentary
25 evidence, if so ordered, or to give evidence relative to the
26 subject matter of that investigation or hearing. Any failure to

1 obey such order of the circuit court may be punished by that
2 court as a contempt of court.

3 Each member of the Board and any hearing officer designated
4 by the Board shall have the power to administer oaths and to
5 take the testimony of persons under oath.

6 (g) Except under subsection (a) of this Section, a majority
7 of the members then appointed to the Prisoner Review Board
8 shall constitute a quorum for the transaction of all business
9 of the Board.

10 (h) The Prisoner Review Board shall annually transmit to
11 the Director a detailed report of its work for the preceding
12 calendar year. The annual report shall also be transmitted to
13 the Governor for submission to the Legislature.

14 (Source: P.A. 93-207, eff. 1-1-04; 94-165, eff. 7-11-05.)

15 (730 ILCS 5/3-3-13.1 new)

16 Sec. 3-3-13.1. Procedure for certificate of innocence;
17 procedure for claimant to obtain a certificate of innocence of
18 all offenses for which he or she was incarcerated.

19 (a) Any person convicted and subsequently imprisoned for
20 one or more felonies by the State of Illinois which he or she
21 did not commit may, under the conditions hereinafter provided,
22 file a petition for a certificate of innocence with the
23 Prisoner Review Board in order to obtain compensation in the
24 Court of Claims. The Legislature finds and declares that
25 innocent persons who have been wrongly convicted of crimes in

1 Illinois and subsequently imprisoned have been frustrated in
2 seeking legal redress due to a variety of substantive and
3 technical obstacles in the law and that such persons should
4 have an available avenue to obtain a finding of innocence so
5 that they may obtain relief through the Prisoner Review Board.
6 It is the intent of the Legislature that the Prisoner Review
7 Board, in exercising its discretion as permitted by law
8 regarding the weight and admissibility of evidence submitted
9 pursuant to this Section, shall, in the interest of justice,
10 give due consideration to difficulties of proof caused by the
11 passage of time, the death or unavailability of witnesses, the
12 destruction of evidence or other factors not caused by such
13 persons or those acting on their behalf.

14 (b) In order to present the claim for unjust conviction and
15 imprisonment, the claimant must establish by documentary
16 evidence attached to the petition that:

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

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

1 information was based, violated the Constitution of the
2 United States or the State of Illinois; and

3 (3) his or her claim is not time barred by the time
4 limitations set out in paragraph (d) of this Section.

5 (c) The petition shall state facts in sufficient detail to
6 permit the Prisoner Review Board to find that claimant is
7 likely to succeed at trial in proving that: (1) the claimant is
8 innocent of the offenses charged in the indictment or
9 information or (2) his or her acts or omissions charged in the
10 indictment or information did not constitute a felony or
11 misdemeanor against the State of Illinois, and (3) the claimant
12 did not by his or her own conduct voluntarily cause or bring
13 about his or her conviction. The petition shall be verified by
14 the claimant. If the Prisoner Review Board finds after
15 reviewing the petition that claimant is not likely to succeed
16 at trial, it shall dismiss the claim, either on its own motion
17 or on the motion of the State's Attorney or Attorney General.

18 (d) Any person seeking a certificate of innocence based on
19 the dismissal of an indictment or information or acquittal that
20 occurred before the effective date of this amendatory Act of
21 the 95th General Assembly shall file his or her petition within
22 2 years after the effective date of this amendatory Act of the
23 95th General Assembly. Any person seeking a certificate of
24 innocence based on the dismissal of an indictment or
25 information or acquittal that occurred on or after the
26 effective date of this amendatory Act of the 95th General

1 Assembly shall file his or her petition within 2 years after
2 the dismissal.

3 (e) A copy of the petition shall be given by the Board to
4 the Attorney General, the committing court, and the State's
5 Attorney of the county where the conviction was had.

6 (f) The Board shall, upon due notice, give a hearing to
7 each application, allowing representation by counsel. The
8 Attorney General and the State's Attorney of the county where
9 the conviction was had shall be permitted to intervene as
10 interested parties in any proceeding brought under this
11 Section.

12 (g) In order to obtain a certificate of innocence in his or
13 her favor, the claimant must prove by a preponderance of
14 evidence that:

15 (1) The claimant was convicted of one or more felonies
16 by the People of the State of Illinois and subsequently
17 sentenced to a term of imprisonment, and has served all or
18 any part of the sentence;

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

1 (3) The claimant is innocent of the offenses charged in
2 the indictment or information or his or her acts or
3 omissions charged in the indictment, or information did not
4 constitute a felony or misdemeanor against the State of
5 Illinois; and

6 (4) The claimant did not by his or her own conduct
7 voluntarily cause or bring about his or her conviction.

8 (h) If the Prisoner Review Board finds that the claimant
9 has met his or her burden of proof, it shall enter a
10 recommended decision that the claimant was innocent of all
11 offenses for which he or she was incarcerated.

12 (i) A copy of the recommended decision shall be promptly
13 forwarded to the Governor, the claimant, the Attorney General,
14 and the State's Attorney of the county where the conviction was
15 had.

16 (j) Within 30 days after entry of the recommended decision,
17 the claimant, the Attorney General, and the State's Attorney of
18 the county where the conviction was had may file with the
19 Governor objections to the recommended decision. The party
20 filing an objection shall mail a copy to all parties. Within 30
21 days of receipt of the objection, any party may file with the
22 Governor a response to any objection. The party filing a
23 response shall mail a copy to all parties.

24 (k) The Governor may make a final decision which agrees or
25 disagrees with or modifies the recommended decision within 120
26 days after the issuance of the recommended decision. The

1 Governor's timely decision shall be the final decision as to
2 the petition for a certificate of innocence. Where the Governor
3 fails to enter a decision within 120 days after the issuance of
4 the recommended decision, the recommended decision shall be the
5 final decision as to the petition for a certificate of
6 innocence. A copy of the final decision shall be sent to the
7 claimant, the Attorney General and the State's Attorney of the
8 county where the conviction was had.

9 (1) The decision as to the claimant's guilt or innocence
10 shall be binding only with respect to claims filed in the Court
11 of Claims and shall not have a res judicata effect on any other
12 proceedings.

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