



Rep. Mary E. Flowers

Filed: 5/9/2007

09500HB0230ham004

LRB095 04122 RLC 35980 a

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 Circuit Court as provided in Section 2-702
3 of the Code of Civil Procedure.

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

7 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

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

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

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

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

1 she was imprisoned and the accused received ~~shall receive~~ a
2 pardon from the governor stating that such pardon is issued on
3 the ground of innocence of the crime for which he or she was
4 ~~they were~~ imprisoned or he or she received a certificate of
5 innocence from the Circuit Court as provided in Section 2-702
6 of the Code of Civil Procedure; provided, the amount of the
7 award is at the discretion of the court; and provided, the
8 court shall make no award in excess of the following amounts:
9 for imprisonment of 5 years or less, not more than \$85,350
10 ~~\$15,000~~; for imprisonment of 14 years or less but over 5 years,
11 not more than \$170,000 ~~\$30,000~~; for imprisonment of over 14
12 years, not more than \$199,150 ~~\$35,000~~; and provided further,
13 the court shall fix attorney's fees not to exceed 25% of the
14 award granted. On or after the effective date of this
15 amendatory Act of the 95th General Assembly, ~~On December 31,~~
16 ~~1996, the court shall make a one time adjustment in the maximum~~
17 ~~awards authorized by this subsection (c), to reflect the~~
18 ~~increase in the cost of living from the year in which these~~
19 ~~maximum awards were last adjusted until 1996, but with no~~
20 ~~annual increment exceeding 5%. Thereafter,~~ the court shall
21 annually adjust the maximum awards authorized by this
22 subsection (c) to reflect the increase, if any, in the Consumer
23 Price Index For All Urban Consumers for the previous calendar
24 year, as determined by the United States Department of Labor,
25 except that no annual increment may exceed 5%. For ~~both~~ the
26 ~~one time adjustment and the subsequent~~ annual adjustments, if

1 the Consumer Price Index decreases during a calendar year,
2 there shall be no adjustment for that calendar year. The
3 changes made by this amendatory Act of the 95th General
4 Assembly apply to all claims pending on or filed on or after
5 the effective date. ~~The changes made by Public Act 89-689 apply~~
6 ~~to all claims filed on or after January 1, 1995 that are~~
7 ~~pending on December 31, 1996 and all claims filed on or after~~
8 ~~December 31, 1996.~~

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

1 Section does not apply to an award of damages in any case
2 sounding in tort arising out of the operation by a State
3 employee of a vehicle owned, leased or controlled by the State.
4 The defense that the State or the Medical Center Commission or
5 the Board of Trustees of the University of Illinois, the Board
6 of Trustees of Southern Illinois University, the Board of
7 Trustees of Chicago State University, the Board of Trustees of
8 Eastern Illinois University, the Board of Trustees of Governors
9 State 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 is not liable for the
15 negligence of its officers, agents, and employees in the course
16 of their employment is not applicable to the hearing and
17 determination of such claims.

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

20 (f) All claims pursuant to the Line of Duty Compensation
21 Act.

22 (g) All claims filed pursuant to the Crime Victims
23 Compensation Act.

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

26 (i) All claims authorized by subsection (a) of Section

1 10-55 of the Illinois Administrative Procedure Act for the
2 expenses incurred by a party in a contested case on the
3 administrative level.

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

5 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

6 Sec. 11. Filing claims.

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

21 (b) Whenever a person has served a term of imprisonment and
22 has received a pardon by the Governor stating that such pardon
23 was issued on the ground of innocence of the crime for which he
24 or she was imprisoned, or a certificate of innocence from the
25 Circuit Court as provided in Section 2-702 of the Code of Civil

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

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

10 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

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

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

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

25 (c) All claims arising under paragraph (c) of Section 8 of

1 this Act must be automatically heard by the court ~~filed~~ within
2 120 days ~~2 years~~ after the person unjustly imprisoned ~~asserting~~
3 ~~such claim~~ is discharged from prison without the person
4 unjustly imprisoned being required to file a petition under
5 Section 11 of this Act ~~, or is granted a pardon by the~~
6 ~~Governor, whichever occurs later, except as otherwise provided~~
7 ~~by the Crime Victims Compensation Act.~~

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

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

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

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

26 (h) All other claims must be filed within 2 years after it

1 first accrues, saving to minors, and persons under legal
2 disability at the time the claim accrues, in which case the
3 claim must be filed within 2 years from the time the disability
4 ceases.

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

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

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

13 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

14 Sec. 24. Payment of awards.

15 (1) From funds appropriated by the General Assembly for the
16 purposes of this Section the Court may direct immediate payment
17 of:

18 (a) All claims arising solely as a result of the
19 lapsing of an appropriation out of which the obligation
20 could have been paid.

21 (b) All claims pursuant to the "Law Enforcement
22 Officers and Firemen Compensation Act", approved September
23 30, 1969, as amended.

24 (c) All claims pursuant to the "Illinois National
25 Guardsman's and Naval Militiaman's Compensation Act",

1 approved August 12, 1971, as amended.

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

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

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

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

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

20 (705 ILCS 505/24.5 new)

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

24 Section 15. The Code of Civil Procedure is amended by

1 adding Section 2-702 as follows:

2 (735 ILCS 5/2-702 new)

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

6 (a) The General Assembly finds and declares that innocent
7 persons who have been wrongly convicted of crimes in Illinois
8 and subsequently 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 legal
14 nomenclature which compels an innocent person to seek a pardon
15 for being wrongfully incarcerated. It is the intent of the
16 General Assembly that the court, in exercising its discretion
17 as permitted by law regarding the weight and admissibility of
18 evidence submitted pursuant to this Section, shall, in the
19 interest of justice, give due consideration to difficulties of
20 proof caused by the passage of time, the death or
21 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 convicted and subsequently imprisoned for
25 one or more felonies by the State of Illinois which he or she

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

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

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

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

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

25 (d) The petition shall state facts in sufficient detail to
26 permit the court to find that the petitioner is likely to

1 succeed at trial in proving that the petitioner is innocent of
2 the offenses charged in the indictment or information or his or
3 her acts or omissions charged in the indictment or information
4 did not constitute a felony or misdemeanor against the State of
5 Illinois, and the petitioner did not by his or her own conduct
6 voluntarily cause or bring about his or her conviction. The
7 petition shall be verified by the petitioner.

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

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

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

22 (1) the petitioner was convicted of one or more
23 felonies by the State of Illinois and subsequently
24 sentenced to a term of imprisonment, and has served all or
25 any part of the sentence;

26 (2) (A) the judgment of conviction was reversed or

1 vacated, and the indictment or information dismissed or, if
2 a new trial was ordered, either the petitioner was found
3 not guilty at the new trial or the petitioner was not
4 retried and the indictment or information dismissed; or (B)
5 the statute, or application thereof, on which the
6 indictment or information was based violated the
7 Constitution of the United States or the State of Illinois;

8 (3) the petitioner is innocent of the offenses charged
9 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; and

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

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.

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

1 amendatory Act of the 95th General Assembly shall file his or
2 her petition within 2 years after the dismissal.

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

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".