

AN ACT concerning education.

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

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

(110 ILCS 947/62)

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

(a) In this Section:

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

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

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

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

the Commission shall, each year, receive and consider applications for grant assistance under this Section. Recipients of grants issued by the Commission in accordance with this Section must be exonerated persons or, as provided in subsection (c-5) of this Section, their dependents. Provided that the recipient is maintaining satisfactory academic progress and subject to subsection (c-5) of this Section, the funds from the grant may be used to pay up to 8 semesters or 12 quarters of full payment of tuition and mandatory fees at any public university or public community college located in this State for either full or part-time study. This benefit may be used for undergraduate or graduate study. Beginning with grants awarded for the 2025-2026 academic year, a grant under this Section may also be used at any private, not-for-profit college or university in this State that is approved to participate in the Monetary Award Program under Section 35 of this Act. A recipient attending such a private, not-for-profit college or university shall receive payment of tuition and mandatory fees in an amount not to exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public college or university in this State.

In addition, an exonerated person or, as provided in subsection (c-5) of this Section, a dependent who has not yet received a high school diploma or a State of Illinois High School Diploma and completes a high school equivalency

preparation course through an Illinois Community College Board-approved provider may use grant funds to pay costs associated with obtaining a State of Illinois High School Diploma, including payment of the cost of the high school equivalency test and up to one retest on each test module, and any additional fees that may be required in order to obtain a State of Illinois High School Diploma or an official transcript of test scores after successful completion of the high school equivalency test.

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

(c-5) Beginning no later than the 2025-2026 academic year, if an exonerated person has been found by the Commission to qualify for a grant under this Section and the exonerated person has not yet exhausted the benefit for which the exonerated person is eligible under subsection (b), the exonerated person may designate one or more dependents to use any unexpended portion of the benefit for which the exonerated person is eligible, up to the total benefit for which the exonerated person is eligible under subsection (b). 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 under subsection (b). If funding is insufficient to serve all applicants, the Commission may prioritize applicants who have been exonerated

over applicants who are dependents of exonerated persons.

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

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

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

(735 ILCS 5/2-702)

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

(a) The General Assembly finds and declares that innocent persons who have been wrongly convicted of crimes in Illinois and subsequently imprisoned have been frustrated in seeking legal redress due to a variety of substantive and technical obstacles in the law and that such persons should have an available avenue to obtain a finding of innocence so that they may obtain relief through a petition in the Court of Claims. The General Assembly further finds misleading the current legal nomenclature which compels an innocent person to seek a pardon for being wrongfully incarcerated. It is the intent of the General Assembly that the court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence submitted pursuant to this Section, shall, in the interest of justice, give due consideration to

difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not caused by such persons or those acting on their behalf.

(b) Any person convicted and subsequently imprisoned for one or more felonies by the State of Illinois which he or she did not commit may, under the conditions hereinafter provided, file a petition for certificate of innocence in the circuit court of the county in which the person was convicted. The petition shall request a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated.

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

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

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

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

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

(d) The petition shall state facts in sufficient detail to permit the court to find that the petitioner is likely to succeed at trial in proving that the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State of Illinois, and the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction. The petition shall be verified by the petitioner.

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

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

(g) In order to obtain a certificate of innocence the

petitioner must prove by a preponderance of evidence that:

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

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

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

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

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

(h) If the court finds that the petitioner is entitled to a judgment, it shall enter a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated. Upon entry of the certificate of innocence or pardon from the Governor stating that such pardon was issued on the ground of innocence of the crime for which he

or she was imprisoned, (1) the clerk of the court shall transmit a copy of the certificate of innocence to the clerk of the Court of Claims, together with the claimant's current address; and (2) the court shall enter an order expunging the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court and the Illinois State Police be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The court shall enter the expungement order regardless of whether the petitioner has prior criminal convictions.

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

Upon entry of the order of expungement, the clerk of the circuit court shall promptly mail a copy of the order to the

person whose records were expunged and sealed. The clerk shall post in the common areas of the courthouse a notice containing information about grants for exonerated persons and their dependents under Section 62 of the Higher Education Student Assistance Act, including the Internet address of the Illinois Student Assistance Commission. The Illinois Student Assistance Commission shall develop a uniform statewide notice and provide the format of the notice to each clerk.

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

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

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