



Rep. Monique D. Davis

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1 AMENDMENT TO HOUSE BILL 2881

2 AMENDMENT NO. _____. Amend House Bill 2881 on page 14,
3 line 26 by changing "702.5" to "2-702.5"; and

4 on page 15, by replacing lines 7 through 24 with the following:

5 (735 ILCS 5/2-702.5 new)

6 Sec. 2-702.5. Automatic issuance of certificate of
7 innocence.

8 (a) The court shall sua sponte enter a certificate of
9 innocence finding that the petitioner was innocent of all
10 offenses for which he or she was incarcerated if:

11 (1) on the basis of DNA evidence or other substantive
12 evidence, the person is released from prison after his or
13 her judgment of conviction was reversed or vacated, and the
14 indictment or information was dismissed; or

15 (2) either (A) a new trial was ordered, at which the
16 person was found not guilty at the new trial on the basis

1 of DNA evidence or other substantive evidence; or (B) the
2 person was not retried and the indictment or information
3 was dismissed on the basis of DNA evidence or other
4 substantive evidence.

5 (b) The State's Attorney shall be given notice that the
6 court will be entering a certificate of innocence. If the
7 State's Attorney fails to file an objection within 60 days, the
8 certificate of innocence shall be issued by the court. If the
9 State's Attorney files an objection, the court shall hear
10 evidence on whether the certificate of innocence should be
11 granted.

12 (c) The court may not issue the person a certificate of
13 innocence if the State's Attorney files an objection to the
14 issuance of the certificate of innocence and shows by a
15 preponderance of the evidence that the person is ineligible for
16 a certificate of innocence under this Section.

17 (d) A person is ineligible for a certificate of innocence
18 under this Section if:

19 (1) the person is released from prison after his or her
20 judgment of conviction was reversed or vacated and the
21 indictment or information was dismissed on the basis of
22 technical grounds; or

23 (2) either (A) a new trial was ordered, at which the
24 person was found not guilty at the new trial on the basis
25 of technical grounds; or (B) the person was not retried and
26 the indictment or information was dismissed on the basis of

1 technical grounds.

2 (e) A certificate of innocence issued under this Section
3 shall be provided to an eligible person upon his or her release
4 from prison, or shall be made available for pickup from the
5 clerk of the circuit court within a reasonable time after the
6 person's release from prison.

7 (f) Upon entry of the certificate of innocence: (i) the
8 clerk of the court shall transmit a copy of the certificate of
9 innocence to the clerk of the Court of Claims, together with
10 the claimant's current address; and (ii) the court shall enter
11 an order expunging or sealing the record of arrest from the
12 official records of the arresting authority and directing that
13 the records of the clerk of the circuit court and Department of
14 State Police be sealed until further order of the court upon
15 good cause shown or as otherwise provided by law, and that the
16 name of the defendant be obliterated from the official index
17 requested to be kept by the circuit court clerk under Section
18 16 of the Clerks of Courts Act in connection with the arrest
19 and conviction for the offense, but the order shall not affect
20 any index issued by the circuit court clerk before the entry of
21 the order.

22 (g) Nothing in this Section may be construed as preventing
23 a person from filing a petition under Section 2-702 of this
24 Code."; and

25 by deleting page 16.