



Sen. Elgie R. Sims, Jr.

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10400HB3663sam001

LRB104 09546 JRC 26046 a

1 AMENDMENT TO HOUSE BILL 3663

2 AMENDMENT NO. _____. Amend House Bill 3663 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Court of Claims Act is amended by changing
5 Sections 8 and 11 as follows:

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

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

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

1 or (ii) to review administrative decisions for which a
2 statute provides that review shall be in the circuit or
3 appellate court.

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

6 (c) All claims against the State for time unjustly
7 served in prisons of this State, in county jails, in
8 county juvenile detention facilities, or Illinois Youth
9 Centers, on parole or probation, or registered as a sex
10 offender when the person unjustly convicted or adjudicated
11 a delinquent ~~imprisoned~~ received a pardon from the
12 Governor stating that such pardon is issued on the ground
13 of innocence of the crime for which he or she was convicted
14 or adjudicated a delinquent ~~imprisoned~~ or he or she
15 received a certificate of innocence from the Circuit Court
16 as provided in Section 2-702 of the Code of Civil
17 Procedure. For such claims, the court shall make an award
18 of \$50,000 per calendar year, and prorated for any partial
19 calendar year, during which the person was wrongfully
20 incarcerated in a State prison, in a county jail, in a
21 county juvenile detention facility, or in an Illinois
22 Youth Center, including the time the person was
23 incarcerated awaiting trial, and \$25,000 for each calendar
24 year, and prorated for any partial calendar year, during
25 which the person was wrongfully on parole or probation or
26 required to register as a sex offender. The court shall

1 direct payment of awards under this subsection as follows:

2 (1) For awards of \$1,000,000 or less, the full
3 amount is to be paid with funds from the State fiscal
4 year in which the award was entered.

5 (2) For awards of more than \$1,000,000 but less
6 than \$1,300,000, \$1,000,000 is to be paid from the
7 State fiscal year in which the award was entered, and
8 the remainder is to be paid in the next fiscal year
9 thereafter.

10 (3) For awards of \$1,300,000 or more, \$1,000,000
11 is to be paid from the State fiscal year in which the
12 award was entered, and the remainder is to be paid in
13 equal installments over the next 3 fiscal years.

14 ~~The ; provided, the amount of the award is at the~~
15 ~~discretion of the court; and provided, the court shall~~
16 ~~make no award in excess of the following amounts: for~~
17 ~~imprisonment of 5 years or less, not more than \$85,350;~~
18 ~~for imprisonment of 14 years or less but over 5 years, not~~
19 ~~more than \$170,000; for imprisonment of over 14 years, not~~
20 ~~more than \$199,150; and provided further, the court shall~~
21 ~~fix attorney's fees not to exceed 25% of the award~~
22 ~~granted. On or after the effective date of this amendatory~~
23 ~~Act of the 95th General Assembly, the court shall annually~~
24 ~~adjust the ~~maximum~~ awards required ~~authorized~~ by this~~
25 ~~subsection (c) to reflect the increase, if any, in the~~
26 ~~Consumer Price Index For All Urban Consumers for the~~

1 previous calendar year, as determined by the United States
2 Department of Labor, except that no annual increment may
3 exceed 5%. For the annual adjustments, if the Consumer
4 Price Index decreases during a calendar year, there shall
5 be no adjustment for that calendar year. The transmission
6 by the Prisoner Review Board or the clerk of the circuit
7 court of the information described in Section 11(b) to the
8 clerk of the Court of Claims is conclusive evidence of the
9 validity of the claim. The court shall determine
10 reasonable attorney's fees, costs, and expenses for the
11 claimant's attorney not to exceed: (i) 25% of the award
12 for claimants incarcerated 3 years or less; (ii) 15% of
13 the award for claimants incarcerated more than 3 years but
14 less than 10 years; and (iii) 10% of the award for
15 claimants incarcerated 10 years or more. Claimant's
16 attorneys may not collect any fees, costs, and expenses in
17 excess of the amounts awarded under this Section. The
18 changes made by Public Act 95-970 ~~this amendatory Act of~~
19 ~~the 95th General Assembly~~ apply to all claims pending on
20 or filed on or after September 22, 2008 (the effective
21 date of Public Act 95-970). The changes made by this
22 amendatory Act of the 104th General Assembly apply to all
23 claims pending or filed on or after the effective date of
24 this amendatory Act of the 104th General Assembly.

25 (d) All claims against the State for damages in cases
26 sounding in tort, if a like cause of action would lie

1 against a private person or corporation in a civil suit,
2 and all like claims sounding in tort against the Medical
3 Center Commission, the Board of Trustees of the University
4 of Illinois, the Board of Trustees of Southern Illinois
5 University, the Board of Trustees of Chicago State
6 University, the Board of Trustees of Eastern Illinois
7 University, the Board of Trustees of Governors State
8 University, the Board of Trustees of Illinois State
9 University, the Board of Trustees of Northeastern Illinois
10 University, the Board of Trustees of Northern Illinois
11 University, the Board of Trustees of Western Illinois
12 University, or the Board of Trustees of the Illinois
13 Mathematics and Science Academy; provided, that an award
14 for damages in a case sounding in tort, other than certain
15 cases involving the operation of a State vehicle described
16 in this paragraph, shall not exceed the sum of \$2,000,000
17 to or for the benefit of any claimant. The \$2,000,000
18 limit prescribed by this Section does not apply to an
19 award of damages in any case sounding in tort arising out
20 of the operation by a State employee of a vehicle owned,
21 leased or controlled by the State. The defense that the
22 State or the Medical Center Commission or the Board of
23 Trustees of the University of Illinois, the Board of
24 Trustees of Southern Illinois University, the Board of
25 Trustees of Chicago State University, the Board of
26 Trustees of Eastern Illinois University, the Board of

1 Trustees of Governors State University, the Board of
2 Trustees of Illinois State University, the Board of
3 Trustees of Northeastern Illinois University, the Board of
4 Trustees of Northern Illinois University, the Board of
5 Trustees of Western Illinois University, or the Board of
6 Trustees of the Illinois Mathematics and Science Academy
7 is not liable for the negligence of its officers, agents,
8 and employees in the course of their employment is not
9 applicable to the hearing and determination of such
10 claims. The changes to this Section made by this
11 amendatory Act of the 100th General Assembly apply only to
12 claims filed on or after July 1, 2015.

13 The court shall annually adjust the maximum awards
14 authorized by this subsection to reflect the increase, if
15 any, in the Consumer Price Index For All Urban Consumers
16 for the previous calendar year, as determined by the
17 United States Department of Labor. The Comptroller shall
18 make the new amount resulting from each annual adjustment
19 available to the public via the Comptroller's official
20 website by January 31 of every year.

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

23 (f) All claims pursuant to the Line of Duty
24 Compensation Act. A claim under that Act must be heard and
25 determined within one year after the application for that
26 claim is filed with the Court as provided in that Act.

1 (g) All claims filed pursuant to the Crime Victims
2 Compensation Act.

3 (h) All claims pursuant to the Illinois National
4 Guardsmen's Compensation Act. A claim under that Act must
5 be heard and determined within one year after the
6 application for that claim is filed with the Court as
7 provided in that Act.

8 (i) All claims authorized by subsection (a) of Section
9 10-55 of the Illinois Administrative Procedure Act for the
10 expenses incurred by a party in a contested case on the
11 administrative level.

12 (Source: P.A. 100-1124, eff. 11-27-18.)

13 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

14 Sec. 11. Filing claims.

15 (a) Except as otherwise provided in subsection (b) of this
16 Section and subsection (4) of Section 24, the claimant shall
17 in all cases set forth fully in his petition the claim, the
18 action thereon, if any, on behalf of the State, what persons
19 are owners thereof or interested therein, when and upon what
20 consideration such persons became so interested; that no
21 assignment or transfer of the claim or any part thereof or
22 interest therein has been made, except as stated in the
23 petition; that the claimant is justly entitled to the amount
24 therein claimed from the State of Illinois, after allowing all
25 just credits; and that claimant believes the facts stated in

1 the petition to be true. The petition shall be verified, as to
2 statements of facts, by the affidavit of the claimant, his
3 agent, or attorney.

4 (b) Whenever a person has been convicted or adjudicated a
5 delinquent ~~served a term of imprisonment~~ and has received a
6 pardon by the Governor stating that such pardon was issued on
7 the ground of innocence of the crime for which he or she was
8 convicted or adjudicated a delinquent ~~imprisoned~~, the Prisoner
9 Review Board shall transmit this information to the clerk of
10 the Court of Claims, together with the claimant's current
11 address. Whenever a person ~~has served a term of imprisonment~~
12 ~~and~~ has received a certificate of innocence from the Circuit
13 Court as provided in Section 2-702 of the Code of Civil
14 Procedure, the clerk of the issuing Circuit Court shall
15 transmit this information to the clerk of the Court of Claims,
16 together with the claimant's current address. The clerk of the
17 Court of Claims shall immediately docket the case for
18 consideration by the Court of Claims, and shall provide notice
19 to the claimant of such docketing together with all hearing
20 dates and applicable deadlines. The Court of Claims shall hear
21 the case and render a decision within 90 days after its
22 docketing.

23 (Source: P.A. 95-970, eff. 9-22-08; 96-328, eff. 8-11-09.)

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

1 (735 ILCS 5/2-702)

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

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

23 (b) Any person who was convicted or adjudicated a
24 delinquent and subsequently served any part of a sentence of
25 incarceration in a State prison, in a county jail, in a county

1 juvenile detention facility, or in an Illinois Youth Center,
2 on parole or probation, or registered as a sex offender
3 ~~imprisoned~~ for one or more felonies by the State of Illinois
4 which he or she did not commit may, under the conditions
5 hereinafter provided, file a petition for certificate of
6 innocence in the circuit court of the county in which the
7 person was convicted or adjudicated a delinquent. The petition
8 shall request a certificate of innocence finding that the
9 petitioner was innocent of one or more ~~all~~ offenses for which
10 he or she was convicted or adjudicated a delinquent
11 ~~incarcerated~~.

12 (c) In order to present the claim for certificate of
13 innocence of an unjust conviction or juvenile delinquency
14 adjudication ~~and imprisonment~~, the petitioner must attach to
15 his or her petition documentation demonstrating that:

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

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

1 application thereof, on which the charge ~~indictment or~~
2 ~~information~~ was based violated the Constitution of the
3 United States or the State of Illinois; and

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

6 (d) The petition shall state facts in sufficient detail to
7 permit the court to find that the petitioner is likely to
8 succeed at trial in proving that the petitioner is innocent of
9 the alleged offenses for which he or she was convicted or
10 adjudicated a delinquent charged in the indictment or
11 information or his or her acts or omissions charged in the
12 indictment or information did not constitute a felony or
13 misdemeanor against the State of Illinois, and the petitioner
14 did not by his or her own conduct voluntarily cause or bring
15 about his or her conviction or juvenile delinquency
16 adjudication. The petition shall be verified by the
17 petitioner.

18 (e) A copy of the petition shall be served on the Attorney
19 General and the State's Attorney of the county where the
20 conviction or juvenile delinquency adjudication was had. The
21 Attorney General and the State's Attorney of the county where
22 the conviction or juvenile delinquency adjudication was had
23 shall have the right to intervene as parties.

24 (f) In any hearing seeking a certificate of innocence, the
25 court may take judicial notice of prior sworn testimony or
26 evidence admitted in the criminal or juvenile delinquency

1 proceedings related to the convictions or adjudications which
2 resulted in the alleged wrongful incarceration, if the
3 petitioner was either represented by counsel at such prior
4 proceedings or the right to counsel was knowingly waived.

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

7 (1) the petitioner was convicted or adjudicated a
8 delinquent of one or more felonies by the State of
9 Illinois and subsequently sentenced ~~to a term of~~
10 ~~imprisonment~~, and has served all or any part of the
11 sentence;

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

21 (3) the petitioner is innocent of one or more of the
22 offenses for which he or she was convicted or adjudicated
23 a delinquent or his or her acts or omissions for which he
24 or she was convicted or adjudicated a delinquent ~~charged~~
25 ~~in the indictment or information or his or her acts or~~
26 ~~omissions charged in the indictment or information~~ did not

1 constitute a felony or misdemeanor against the State; and

2 (4) the petitioner did not by his or her own conduct
3 voluntarily cause or bring about his or her conviction or
4 juvenile delinquency adjudication.

5 (h) If the court finds that the petitioner is entitled to a
6 judgment, it shall enter a certificate of innocence finding
7 that the petitioner was innocent of one or more ~~all~~ offenses
8 for which he or she was convicted or adjudicated a delinquent
9 ~~incarcerated~~. Upon entry of the certificate of innocence or
10 pardon from the Governor stating that such pardon was issued
11 on the ground of innocence of the crime for which he or she was
12 convicted or adjudicated a delinquent ~~imprisoned~~, (1) the
13 clerk of the court shall transmit a copy of the certificate of
14 innocence to the clerk of the Court of Claims, together with
15 the claimant's current address; and (2) the court shall enter
16 an order expunging the record of arrest from the official
17 records of the arresting authority and order that the records
18 of the clerk of the circuit court and the Illinois State Police
19 be sealed until further order of the court upon good cause
20 shown or as otherwise provided herein, and the name of the
21 defendant or respondent in a juvenile delinquency proceeding
22 obliterated from the official index requested to be kept by
23 the circuit court clerk under Section 16 of the Clerks of
24 Courts Act in connection with the arrest and conviction or
25 delinquency adjudication for the offense but the order shall
26 not affect any index issued by the circuit court clerk before

1 the entry of the order. The court shall enter the expungement
2 order regardless of whether the petitioner has prior criminal
3 convictions or delinquency adjudications.

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

12 Upon entry of the order of expungement, the clerk of the
13 circuit court shall promptly mail a copy of the order to the
14 person whose records were expunged and sealed. The clerk shall
15 post in the common areas of the courthouse a notice containing
16 information about grants for exonerated persons and their
17 dependents under Section 62 of the Higher Education Student
18 Assistance Act, including the Internet address of the Illinois
19 Student Assistance Commission. The Illinois Student Assistance
20 Commission shall develop a uniform statewide notice and
21 provide the format of the notice to each clerk.

22 (i) Any person seeking a certificate of innocence under
23 this Section based on the dismissal of an indictment or
24 information or acquittal that occurred before September 22,
25 2008 (the effective date of Public Act 95-970) ~~this amendatory~~
26 ~~Act of the 95th General Assembly~~ shall file his or her petition

1 within 2 years after September 22, 2008 (the effective date of
2 Public Act 95-970) ~~this amendatory Act of the 95th General~~
3 ~~Assembly~~. Any person seeking a certificate of innocence under
4 this Section based on the dismissal of an indictment or
5 information or acquittal that occurred on or after September
6 22, 2008 (the effective date of Public Act 95-970) ~~this~~
7 ~~amendatory Act of the 95th General Assembly~~ shall file his or
8 her petition within 2 years after the dismissal or acquittal.
9 Any person seeking a certificate of innocence under this
10 Section based on the dismissal of a juvenile delinquency
11 petition or an acquittal on such petition that occurred before
12 the effective date of this amendatory Act of the 104th General
13 Assembly, including a petitioner whose petition was denied
14 solely on the basis that this Section did not formerly apply to
15 juvenile delinquency adjudications, shall file his or her
16 petition within 4 years after the effective date of this
17 amendatory Act of the 104th General Assembly. Any person
18 seeking a certificate of innocence under this Section based on
19 the dismissal of a juvenile delinquency petition or an
20 acquittal on such petition that occurred on or after the
21 effective date of this amendatory Act of the 104th General
22 Assembly shall file his or her petition within 2 years after
23 the dismissal or acquittal.

24 (j) The decision to grant or deny a certificate of
25 innocence shall be binding only with respect to claims filed
26 in the Court of Claims and shall not have a res judicata effect

1 on any other proceedings.

2 (Source: P.A. 102-538, eff. 8-20-21; 103-1046, eff. 1-1-25.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".