



Sen. Elgie R. Sims, Jr.

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10400HB3663sam002

LRB104 09546 JRC 29294 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 amount of the award is at
18 the discretion of the court; and provided, the court shall
19 make an award of up to \$50,000 per calendar year, and
20 prorated for any partial calendar year, during which the
21 person was wrongfully incarcerated in a State prison, in a
22 county jail, in a county juvenile detention facility, or
23 in an Illinois Youth Center, including the time the person
24 was incarcerated awaiting trial, and up to \$25,000 for
25 each calendar year, and prorated for any partial calendar
26 year, during which the person was wrongfully on parole or

1 probation or required to register as a sex offender. The
2 court shall direct payment of awards under this subsection
3 as follows:

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

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

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

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

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

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

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

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

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

25 (f) All claims pursuant to the Line of Duty
26 Compensation Act. A claim under that Act must be heard and

1 determined within one year after the application for that
2 claim is filed with the Court as provided in that Act.

3 (g) All claims filed pursuant to the Crime Victims
4 Compensation Act.

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

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

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

15 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

16 Sec. 11. Filing claims.

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

1 therein claimed from the State of Illinois, after allowing all
2 just credits; and that claimant believes the facts stated in
3 the petition to be true. The petition shall be verified, as to
4 statements of facts, by the affidavit of the claimant, his
5 agent, or attorney.

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

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

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

3 (735 ILCS 5/2-702)

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

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

25 (b) Any person who was convicted or adjudicated a

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

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

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

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

1 trial or he or she was not retried and the charge
2 ~~indictment or information~~ dismissed; or the statute, or
3 application thereof, on which the charge ~~indictment or~~
4 ~~information~~ was based violated the Constitution of the
5 United States or the State of Illinois; and

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

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

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

26 (f) In any hearing seeking a certificate of innocence, the

1 court may take judicial notice of prior sworn testimony or
2 evidence admitted in the criminal or juvenile delinquency
3 proceedings related to the convictions or adjudications which
4 resulted in the alleged wrongful incarceration, if the
5 petitioner was either represented by counsel at such prior
6 proceedings or the right to counsel was knowingly waived.

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

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

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

23 (3) the petitioner is innocent of one or more of the
24 offenses for which he or she was convicted or adjudicated
25 a delinquent or his or her acts or omissions for which he
26 or she was convicted or adjudicated a delinquent charged

1 ~~in the indictment or information or his or her acts or~~
2 ~~omissions charged in the indictment or information~~ did not
3 constitute a felony or misdemeanor against the State; and

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

7 (h) If the court finds that the petitioner is entitled to a
8 judgment, it shall enter a certificate of innocence finding
9 that the petitioner was innocent of one or more ~~all~~ offenses
10 for which he or she was convicted or adjudicated a delinquent
11 ~~incarcerated~~. Upon entry of the certificate of innocence or
12 pardon from the Governor stating that such pardon was issued
13 on the ground of innocence of the crime for which he or she was
14 convicted or adjudicated a delinquent ~~imprisoned~~, (1) the
15 clerk of the court shall transmit a copy of the certificate of
16 innocence to the clerk of the Court of Claims, together with
17 the claimant's current address; and (2) the court shall enter
18 an order expunging the record of arrest from the official
19 records of the arresting authority and order that the records
20 of the clerk of the circuit court and the Illinois State Police
21 be sealed until further order of the court upon good cause
22 shown or as otherwise provided herein, and the name of the
23 defendant or respondent in a juvenile delinquency proceeding
24 obliterated from the official index requested to be kept by
25 the circuit court clerk under Section 16 of the Clerks of
26 Courts Act in connection with the arrest and conviction or

1 delinquency adjudication for the offense but the order shall
2 not affect any index issued by the circuit court clerk before
3 the entry of the order. The court shall enter the expungement
4 order regardless of whether the petitioner has prior criminal
5 convictions or delinquency adjudications.

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

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

24 (i) Any person seeking a certificate of innocence under
25 this Section based on the dismissal of an indictment or
26 information or acquittal that occurred before September 22,

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

26 (j) The decision to grant or deny a certificate of

1 innocence shall be binding only with respect to claims filed
2 in the Court of Claims and shall not have a res judicata effect
3 on any other proceedings.

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

5 Section 99. Effective date. This Act takes effect upon
6 becoming law."