



Sen. Elgie R. Sims, Jr.

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10400HB3663sam003

LRB104 09546 LNS 38408 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 in 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, and up to \$25,000 for each  
24 calendar year, and prorated for any partial calendar year,  
25 during which the person was wrongfully on parole or  
26 probation or required to register as a sex offender. Any

1 time in custody that was served on a companion charge  
2 arising out of the same case shall be deducted from the  
3 total award. The court shall direct payment of awards  
4 under this subsection as follows:

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

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

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

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

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

1        this amendatory Act of the 104th General Assembly.

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

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

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

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

26 (f) All claims pursuant to the Line of Duty

1 Compensation Act. A claim under that Act must be heard and  
2 determined within one year after the application for that  
3 claim is filed with the Court as provided in that Act.

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

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

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

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

16 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

17 Sec. 11. Filing claims.

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

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

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

26 (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.

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

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

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

24           (2) his or her judgment of conviction or delinquency  
25 adjudication was reversed or vacated, and the charge  
26 ~~indictment or information~~ dismissed or, if a new trial was

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (i) Any person seeking a certificate of innocence under  
26 this Section based on the dismissal of an indictment or

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

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

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

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