



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB3817

Introduced 2/18/2025, by Rep. Michael Crawford

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-702

Amends the Code of Civil Procedure. Provides that a petition for a certificate of innocence 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 alleged offenses for which the person was convicted (rather than innocent of the offenses charged in the indictment or information) or that his or her acts or omissions for which he or she was convicted (instead of for those charged in the indictment or information) did not constitute a felony or misdemeanor against the State of Illinois. Provides that in order to obtain a certificate of innocence, the petitioner must prove by a preponderance of the evidence that the petitioner is innocent of the alleged offenses for which he or she was convicted (rather than offenses charged in the indictment or information) or that his or her acts or omissions for which he or she was convicted (instead of those charged in the indictment or information) did not constitute a felony or misdemeanor against the State of Illinois. Provides that the changes made by the amendatory Act apply to petitions filed on and after September 22, 2008.

LRB104 08745 JRC 18799 b

1 AN ACT concerning civil law.

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

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 2-702 as follows:

6 (735 ILCS 5/2-702)

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

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

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

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

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

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

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

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

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

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

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

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

1 knowingly waived.

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

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

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

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

17 (3) the petitioner is innocent of the alleged offenses  
18 for which the petitioner was convicted ~~charged in the~~  
19 ~~indictment or information~~ or the petitioner's ~~his or her~~  
20 acts or omissions for which the petitioner was convicted  
21 ~~charged in the indictment or information~~ did not  
22 constitute a felony or misdemeanor against the State; and

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

25 (h) If the court finds that the petitioner is entitled to a  
26 judgment, it shall enter a certificate of innocence finding

1 that the petitioner was innocent of all offenses for which he  
2 or she was incarcerated. Upon entry of the certificate of  
3 innocence or pardon from the Governor stating that such pardon  
4 was issued on the ground of innocence of the crime for which he  
5 or she was imprisoned, (1) the clerk of the court shall  
6 transmit a copy of the certificate of innocence to the clerk of  
7 the Court of Claims, together with the claimant's current  
8 address; and (2) the court shall enter an order expunging the  
9 record of arrest from the official records of the arresting  
10 authority and order that the records of the clerk of the  
11 circuit court and the Illinois State Police be sealed until  
12 further order of the court upon good cause shown or as  
13 otherwise provided herein, and the name of the defendant  
14 obliterated from the official index requested to be kept by  
15 the circuit court clerk under Section 16 of the Clerks of  
16 Courts Act in connection with the arrest and conviction for  
17 the offense but the order shall not affect any index issued by  
18 the circuit court clerk before the entry of the order. The  
19 court shall enter the expungement order regardless of whether  
20 the petitioner has prior criminal convictions.

21 All records sealed by the Illinois State Police may be  
22 disseminated by the Department only as required by law or to  
23 the arresting authority, the State's Attorney, the court upon  
24 a later arrest for the same or similar offense, or for the  
25 purpose of sentencing for any subsequent felony. Upon  
26 conviction for any subsequent offense, the Department of

1 Corrections shall have access to all sealed records of the  
2 Department pertaining to that individual.

3       Upon entry of the order of expungement, the clerk of the  
4 circuit court shall promptly mail a copy of the order to the  
5 person whose records were expunged and sealed. The clerk shall  
6 post in the common areas of the courthouse a notice containing  
7 information about grants for exonerated persons and their  
8 dependents under Section 62 of the Higher Education Student  
9 Assistance Act, including the Internet address of the Illinois  
10 Student Assistance Commission. The Illinois Student Assistance  
11 Commission shall develop a uniform statewide notice and  
12 provide the format of the notice to each clerk.

13       (i) Any person seeking a certificate of innocence under  
14 this Section based on the dismissal of an indictment or  
15 information or acquittal that occurred before the effective  
16 date of this amendatory Act of the 95th General Assembly shall  
17 file his or her petition within 2 years after the effective  
18 date of this amendatory Act of the 95th General Assembly. Any  
19 person seeking a certificate of innocence under this Section  
20 based on the dismissal of an indictment or information or  
21 acquittal that occurred on or after the effective date of this  
22 amendatory Act of the 95th General Assembly shall file his or  
23 her petition within 2 years after the dismissal.

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 (k) The changes to this Section made by this amendatory  
3 Act of the 104th General Assembly apply to petitions filed on  
4 and after September 22, 2008.

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