

**103RD GENERAL ASSEMBLY****State of Illinois****2023 and 2024****SB2928**

Introduced 1/26/2024, by Sen. Natalie Toro

SYNOPSIS AS INTRODUCED:

New Act

Provides that the Act may be referred to as the Second Chance State Education Act. Contains declarations and findings. Creates the Second Chance Seat in Every Class Act. Provides that each institution of higher education shall reserve at least one enrollment in each class for a returning resident (a person who is a resident of and domiciled in Illinois, has graduated from high school or the equivalent, has been convicted of a felony by a court sitting in the State of Illinois, was sentenced to incarceration pursuant to that conviction, and is not currently incarcerated) and at least one enrollment in each online class for an incarcerated individual. Provides for computer equipment, Internet connections, books, and supplies for enrolled incarcerated individuals. Creates the Incarcerated Individuals and Returning Residents Educational Supply Fund as a fund of the Department of Returning Resident Affairs. Provides that moneys in the Fund shall be used exclusively to pay for costs that incarcerated individuals and returning residents incur for books or other supplies needed to take classes under the Act. Provides that any concession or similar agreement between a public institution of higher education and the operator of a bookstore or similar operation at that public institution of higher education shall include a provision requiring the operator of the bookstore or similar operation to pay 1% of its gross revenues from the operation of that bookstore or similar operation to the Fund. Creates the Second Chance State College Admissions Act. Provides that no institution of higher education shall consider criminal history information when making any decision about an applicant or student, inquire about or consider criminal history information at any time during the admission decision-making process, or place an applicant or student on probationary or similar status based upon criminal history information, with specified exceptions. Contains provisions concerning compliance, administration, enforcement, education, licensing, employment barriers, severability, and other matters. Effective immediately.

LRB103 34517 RJT 64351 b

1 AN ACT concerning education.

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

4 Article 1

5 Section 1-1. References to Act. This Act may be referred
6 to as the Second Chance State Education Act.

7 Section 1-5. Legislative declarations and findings. The
8 General Assembly finds and declares that:

9 (1) The price exacted by the approximately 41%
10 recidivism rate in Illinois is intolerably high. Each
11 recidivism event costs Illinois over \$151,000. The cost of
12 recidivism in terms of violence to Illinois communities is
13 higher, with 39% of returning residents being re-arrested
14 for a violent crime within 9 years of release and 83% of
15 homicide offenders in Illinois having arrest or conviction
16 records.

17 (2) The General Assembly has previously found that
18 "[t]he benefits of higher education programming...to
19 [incarcerated individuals] and to society are
20 well-documented".

21 (3) That documentation includes Northwestern
22 University's reporting that:

1 "this Act" means this Article.

2 Section 5-5. Definitions. As used in this Act:

3 "Degree granting institution" has the meaning set forth in
4 Section 2 of the Academic Degree Act.

5 "Department" means the Department of Returning Resident
6 Affairs.

7 "Incarcerated individual" means any person who has
8 graduated from high school or the equivalent, has been
9 convicted of a felony and as a result of that conviction is
10 incarcerated in a facility that is located in this State and is
11 operated by or under contract with: (1) the Department of
12 Corrections; or (2) the United States Department of Justice.

13 "Institution of higher education" means any publicly or
14 privately operated university, college, community college,
15 business, technical, or vocational school, or other
16 educational institution offering degrees or instruction beyond
17 the secondary school level, including, without limitation, a
18 degree granting institution, post-secondary educational
19 institution, public institution of higher education, or any
20 institution that operates pursuant to authority provided to it
21 by the Board of Higher Education or the Board of Higher
22 Education Act.

23 "Post-secondary educational institution" has the meaning
24 set forth in Section 1 of the Private College Act.

25 "Public institutions of higher education" has the meaning

1 set forth in Section 1 of the Board of Higher Education Act.

2 "Returning resident" means a person who: (1) is a resident
3 of and domiciled in Illinois; (2) has graduated from high
4 school or the equivalent; (3) has been convicted of a felony by
5 a court sitting in the State of Illinois; (4) was sentenced to
6 incarceration pursuant to that conviction; and (5) is not
7 currently incarcerated.

8 Section 5-10. Returning resident enrollment rights. As a
9 condition of its authority to operate in this State, each
10 institution of higher education shall reserve at least one
11 enrollment in each class offered by that institution of higher
12 education for a returning resident, subject to the following
13 provisions:

14 (1) the returning resident shall not be required to
15 have taken an entrance examination or been admitted as a
16 student of the institution of higher education where the
17 returning resident is taking the class;

18 (2) the returning resident shall not be subject to any
19 residency requirements otherwise applicable to enrollment
20 in a class at the institution of higher education;
21 provided that the returning resident shall be a resident
22 of and domiciled in Illinois;

23 (3) except as provided herein, the returning resident
24 must fulfill the other academic prerequisites for the
25 class that apply to other students desiring to take the

1 class;

2 (4) the returning resident shall have the option to
3 take the class for credit or to audit the class and shall
4 be entitled to be awarded degrees, certifications, or
5 similar awards upon the returning resident's satisfactory
6 completion of the requirements for such degrees,
7 certifications, or similar awards;

8 (5) except as otherwise provided herein, the returning
9 resident shall be subject to the course requirements
10 applicable to all other students in a class the returning
11 resident takes pursuant to this Act;

12 (6) the returning resident shall not be required to
13 pay any tuition, fee, or other charge for any class the
14 returning resident takes pursuant to this Act.

15 Section 5-15. Incarcerated individual enrollment rights.

16 (a) As a condition of its authority to operate in this
17 State, each institution of higher education shall reserve at
18 least one enrollment in each online class offered by that
19 institution of higher education for an incarcerated
20 individual, subject to the following provisions:

21 (1) the incarcerated individual shall not be required
22 to have taken an entrance examination or been admitted as
23 a student of the institution of higher education where the
24 incarcerated individual is taking the class;

25 (2) the incarcerated individual shall not be subject

1 to any residency requirements otherwise applicable to
2 enrollment in a class at the institution of higher
3 education;

4 (3) except as otherwise provided herein, the
5 incarcerated individual has fulfilled the other academic
6 prerequisites for the class that apply to other students
7 desiring to take the class;

8 (4) the incarcerated individual shall have the option
9 to take the class for credit or to audit it and shall be
10 entitled to be awarded degrees, certifications, or similar
11 awards upon the incarcerated individual's satisfactory
12 completion of the requirements for such degrees,
13 certifications, or similar awards;

14 (5) except as otherwise provided herein, the
15 incarcerated individual shall be subject to the
16 requirements applicable to all other students in a class
17 the incarcerated individual takes pursuant to this Act;

18 (6) the incarcerated individual shall not be required
19 to pay any tuition, fee, or other charge for any class the
20 incarcerated individual takes pursuant to this Act; and

21 (7) an institution of higher education shall not be
22 required to enroll an incarcerated individual in those
23 laboratory and similar classes that the incarcerated
24 individual could not complete due to the limitations
25 resulting from the incarcerated individual's confinement.

26 (b) Within one year after the effective date of this Act,

1 the Department of Corrections shall provide each incarcerated
2 individual who is incarcerated in a facility operated by or
3 under contract with the Department of Corrections and who
4 wishes to enroll in one or more classes pursuant to this
5 Section with:

6 (1) the incarcerated individual's own individual,
7 personal computer equipment, an Internet connection and
8 all other technology that is necessary for such enrollment
9 and that the incarcerated individual can access at any
10 time, at no cost to the incarcerated individual;

11 (2) the ability to obtain books or other supplies that
12 the incarcerated individual reasonably needs to
13 successfully complete such class or classes, subject to
14 reasonable safety and security considerations. The
15 Department of Corrections shall not charge such
16 incarcerated individual more for such books or supplies
17 than the actual cost of those books and supplies, without
18 any addition for administrative expenses the Department of
19 Corrections incurs relative to the provision of those
20 books and supplies.

21 Section 5-20. Enforcement. Institutions of higher
22 education shall strictly comply with the provisions of this
23 Act. The Department is authorized, directed, and required to
24 take all actions necessary to obtain such compliance and
25 otherwise enforce the provisions of this Act. Notwithstanding

1 and in addition to any other requirement of this Act or any
2 other provision of law:

3 (1) The provisions of this Act may be enforced
4 pursuant to judicial proceedings against an alleged
5 violator that seek to require the violator to cease and
6 desist from violation of the Act, allow one or more
7 returning residents or incarcerated individuals to enroll
8 in the class or classes they are entitled to enroll in
9 pursuant to this Act, and pay any damages suffered by one
10 or more returning residents or incarcerated individuals
11 for violation of the Act.

12 (2) A returning resident or incarcerated individual
13 shall have a private right of action to enforce the
14 provisions of this Act by personally bringing an action
15 pursuant to paragraph (1). Any institution of higher
16 education that is found liable for violation of this Act
17 pursuant to this paragraph shall, in addition to other
18 damages, be liable to pay all reasonable attorney's fees,
19 costs, and expenses incurred by the returning resident or
20 incarcerated individual and that pertain to the returning
21 resident's or incarcerated individual's attempts to
22 enforce the returning resident's or incarcerated
23 individual's rights against that institution of higher
24 education pursuant to this Act.

25 (3) Venue for any action brought pursuant to this
26 Section shall be in the county where the returning

1 resident who is the subject of the action is domiciled or
2 the county where the incarcerated individual who is the
3 subject of the action is detained.

4 Section 5-25. Incarcerated Individuals and Returning
5 Residents Educational Supply Fund; rules.

6 (a) The Incarcerated Individuals and Returning Residents
7 Educational Supply Fund is established as a fund of the
8 Department. Moneys in the Fund shall be used exclusively to
9 pay for all or a portion of the costs that incarcerated
10 individuals and returning residents incur for books or other
11 supplies needed to take one or more classes pursuant to this
12 Act. Moneys in the Fund shall not be transferable to any other
13 State fund and shall not be pledged or used for any purpose
14 other than those set forth in this Section.

15 (b) Any concession or similar agreement between a public
16 institution of higher education and the operator of a
17 bookstore or similar operation at that public institution of
18 higher education shall include a provision requiring the
19 operator of the bookstore or similar operation to pay 1% of its
20 gross revenues from the operation of that bookstore or similar
21 operation to the Incarcerated Individuals and Returning
22 Residents Educational Supply Fund. The Department of Revenue
23 shall collect such moneys from such operators and shall remit
24 such collections for deposit into the Fund. Notwithstanding
25 any other provision of this Act, the Department of Revenue

1 shall be authorized to enforce the provisions of this
2 subsection (b) regarding payments due from such operators.
3 Within 120 days after the effective date of this Act, the
4 Department of Revenue shall publish notice of proposed rules
5 necessary for it to implement the provisions of this
6 subsection (b) in the Illinois Register in accordance with
7 Section 5-40 of the Illinois Administrative Procedure Act.

8 (c) Within 120 days after the later of the: (i)
9 appointment of the Department's first Director; or (ii)
10 effective date of this Act, the Department shall publish
11 notice of proposed rules necessary for it to implement the
12 provisions of this Act in the Illinois Register in accordance
13 with Section 5-40 of the Illinois Administrative Procedure
14 Act.

15 Section 5-30. Administration. This Act shall be
16 incorporated in and administered by the Department as part of
17 the Second Chance State Program established under the
18 Department of Returning Resident Affairs Act.

19 Section 5-35. Provisions of Act mandatory. The provisions
20 of this Act are mandatory and shall not be considered to be
21 directory or discretionary.

1 Section 10-1. Short title. This Article may be cited as
2 the Second Chance State College Admissions Act. As used in
3 this Article, "this Act" means this Article.

4 Section 10-5. Definitions. As used in this Act:

5 "Admission decision-making process" means the submission
6 of a college application and all aspects of the college
7 application process through admission.

8 "Applicant" means an individual who is seeking admission
9 to an institution of higher education.

10 "Criminal history information" means any record regarding
11 an applicant's criminal history, including, but not limited
12 to, records of: (1) arrests and detentions, (2) criminal
13 charges or indictments and the nature of any disposition
14 arising therefrom that does not result in a conviction, and
15 (3) convictions other than convictions pursuant to: (A)
16 Articles 9 and 10, Subdivisions 5, 10, and 20 of Article 11,
17 Sections 11-25 and 11-26, Article 20, 29D, or 30 of the
18 Criminal Code of 2012 or similar laws enacted by other
19 governmental authorities; or (B) Article 12, 24, or 33A of the
20 Criminal Code of 2012 or similar laws enacted by other
21 governmental authorities unless 5 years have passed since the
22 completion of any sentence imposed pursuant to such conviction
23 and the defendant convicted of the offense has not since been
24 convicted of a felony.

25 "Degree granting institution" has the meaning set forth in

1 Section 2 of the Academic Degree Act.

2 "Institution of higher education" means any publicly or
3 privately operated university, college, community college,
4 business, technical, or vocational school, or other
5 educational institution offering degrees or instruction beyond
6 the secondary school level, including, without limitation, a
7 degree granting institution, post-secondary educational
8 institution, public institution of higher education, or any
9 institution that operates pursuant to authority provided to it
10 by the Board of Higher Education or the Board of Higher
11 Education Act.

12 "Post-secondary educational institution" has the meaning
13 set forth in Section 1 of the Private College Act.

14 "Public institutions of higher education" has the meaning
15 set forth in Section 1 of the Board of Higher Education Act.

16 "Student" means any person taking or seeking to take any
17 class at a public institution of higher education, regardless
18 of whether the individual has been admitted as a student at
19 that public institution of higher education.

20 Section 10-10. Discrimination prohibited. Except as
21 provided herein and otherwise authorized by law, no
22 institution of higher education shall consider an applicant's
23 or student's criminal history information when making any
24 decision about the applicant or student. This Section does not
25 apply to decisions regarding housing.

1 Section 10-15. Inquiry about and consideration of criminal
2 history information during the admission process.

3 (a) An institution of higher education shall not inquire
4 about or consider an applicant's criminal history information
5 at any time during the admission decision-making process.

6 (b) Notwithstanding the provisions of subsection (a), an
7 institution of higher education may make inquiry about or
8 consider an applicant's criminal history information if such
9 inquiry or consideration is required by federal law or
10 pursuant to Section 2605-327 of the Illinois State Police Law
11 of the Civil Administrative Code of Illinois or Section 10,
12 15, or 20 of the Medical School Matriculant Criminal History
13 Records Check Act, if applicable. Any inquiry or consideration
14 shall be limited to that which is necessary to comply with the
15 applicable State or federal law. Inquiry about or
16 consideration of criminal history information outside the
17 scope of that required by applicable State or federal law is
18 prohibited.

19 Section 10-20. Probationary status based on criminal
20 history information prohibited. An institution of higher
21 education shall not place an applicant or student on any
22 probationary or similar status based upon criminal history
23 information.

1 Section 10-25. Information about educational, licensing,
2 or employment barriers for people with criminal records. An
3 institution for higher education shall include information on
4 its website that informs prospective applicants that a
5 criminal record may affect an individual's ability to obtain
6 certain professional or occupational licenses or types of
7 employment or to participate in certain clinical or other
8 educational requirements.

9 Section 10-30. Enforcement. Institutions of higher
10 education shall strictly comply with the provisions of this
11 Act. The Board of Higher Education is authorized, directed,
12 and required to take all actions necessary to obtain such
13 compliance and otherwise enforce the provisions of this Act.
14 Within 120 days after the effective date of this Act, the Board
15 of Higher Education shall publish notice of proposed rules
16 necessary for it to implement the provisions of this Act in the
17 Illinois Register in accordance with Section 5-40 of the
18 Illinois Administrative Procedure Act. Notwithstanding and in
19 addition to any other requirement of this Act or any other
20 provision of law:

21 (1) The provisions of this Act may be enforced
22 pursuant to judicial proceedings against an alleged
23 violator that seek to require the violator to cease and
24 desist from violation of the Act and pay any damages
25 suffered by one or more persons aggrieved by the Act.

1 Venue for any such action shall be in the county where the
2 person aggrieved by a violation of this Act is domiciled.
3 If the person aggrieved by a violation of this Act is not
4 domiciled in Illinois, venue for any such action shall be
5 in the county where the principal office of the
6 institution of higher education that is the subject to
7 such action is located.

8 (2) Any person who has been aggrieved by a violation
9 of this Act shall have a private right of action to enforce
10 the provisions of this Act by personally bringing an
11 action pursuant to paragraph (1) above. Any institution of
12 higher education that is found liable for violation of
13 this Act pursuant to this paragraph shall, in addition to
14 other damages, be liable to pay all reasonable attorney's
15 fees, costs, and expenses incurred by the plaintiff in
16 that action and that pertain to that plaintiff's attempts
17 to enforce its rights against that institution of higher
18 education pursuant to this Act.

19 Section 10-35. Provisions of Act mandatory. The provisions
20 of this Act are mandatory and shall not be considered to be
21 directory or discretionary.

22 Article 99

23 Section 99-97. Severability. The provisions of this Act

1 are severable under Section 1.31 of the Statute on Statutes.

2 Section 99-99. Effective date. This Act takes effect upon
3 becoming law.