

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 adding Section 5-5-4.05 as follows:

6 (730 ILCS 5/5-5-4.05 new)

7 Sec. 5-5-4.05. First degree murder by victim of domestic
8 violence; reduction of sentence.

9 (a) The circuit court of the circuit in which the person
10 was convicted may reduce the sentence of a person who is
11 servng a term of imprisonment for first degree murder or the
12 prior offense of murder if each of these circumstances exist:

13 (1) the murderer must have been tried, sentenced, or
14 pled guilty to the offense prior to the effective date of
15 the federal Battered Women's Testimony Act of 1992;

16 (2) the murderer must have claimed abuse as defined in
17 Section 112A-3 of the Code of Criminal Procedure of 1963;

18 (3) the murderer must have written documentation of
19 abuse prior to the effective date of this amendatory Act of
20 the 97th General Assembly. Documentation may include, but
21 is not limited to, civil or criminal court records,
22 proceedings, notarized statements, police reports, and
23 witness statements. Abuse must have been claimed but is not

1 required to be proved;

2 (4) the murderer must be incarcerated for the murder of
3 his or her abuser, whether perpetrated by the murderer or
4 whether accountable for the murder under Article 5 of the
5 Criminal Code of 1961;

6 (5) the murderer must not have been previously
7 convicted of first degree murder, a Class X felony, or a
8 Class 1 felony; and

9 (6) the murderer must have been sentenced to a term of
10 imprisonment that is more than the maximum sentence that is
11 not an extended term sentence.

12 (b) If all of the criteria of subsection (a) are met, the
13 murderer may submit in writing a petition to the circuit court
14 of the circuit in which the person was convicted in accordance
15 with Illinois Supreme Court Rules for reduction of the
16 murderer's sentence to the maximum sentence available for the
17 offense at the time of its commission that was not an extended
18 term sentence. The petition request must include all
19 documentation required by subsection (a). The circuit court of
20 the circuit in which the person was convicted, within 60
21 business days from the date the court receives the petition,
22 shall review the petition and all submitted documents, and if
23 the court is satisfied that the criteria of subsection (a) have
24 been met shall reduce the petitioner's sentence to the maximum
25 sentence available for the offense at the time of its
26 commission that was not an extended term sentence.

1 Section 10. The Code of Civil Procedure is amended by
2 changing Section 2-1401 as follows:

3 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

4 Sec. 2-1401. Relief from judgments.

5 (a) Relief from final orders and judgments, after 30 days
6 from the entry thereof, may be had upon petition as provided in
7 this Section. Writs of error coram nobis and coram vobis, bills
8 of review and bills in the nature of bills of review are
9 abolished. All relief heretofore obtainable and the grounds for
10 such relief heretofore available, whether by any of the
11 foregoing remedies or otherwise, shall be available in every
12 case, by proceedings hereunder, regardless of the nature of the
13 order or judgment from which relief is sought or of the
14 proceedings in which it was entered. Except as provided in
15 Section 6 of the Illinois Parentage Act of 1984, there shall be
16 no distinction between actions and other proceedings,
17 statutory or otherwise, as to availability of relief, grounds
18 for relief or the relief obtainable.

19 (b) The petition must be filed in the same proceeding in
20 which the order or judgment was entered but is not a
21 continuation thereof. The petition must be supported by
22 affidavit or other appropriate showing as to matters not of
23 record. All parties to the petition shall be notified as
24 provided by rule.

1 (c) Except as provided in Section 20b of the Adoption Act
2 and Section 2-32 of the Juvenile Court Act of 1987 or in a
3 petition based upon Section 116-3 of the Code of Criminal
4 Procedure of 1963, the petition must be filed not later than 2
5 years after the entry of the order or judgment. Time during
6 which the person seeking relief is under legal disability or
7 duress or the ground for relief is fraudulently concealed shall
8 be excluded in computing the period of 2 years.

9 (d) The filing of a petition under this Section does not
10 affect the order or judgment, or suspend its operation.

11 (e) Unless lack of jurisdiction affirmatively appears from
12 the record proper, the vacation or modification of an order or
13 judgment pursuant to the provisions of this Section does not
14 affect the right, title or interest in or to any real or
15 personal property of any person, not a party to the original
16 action, acquired for value after the entry of the order or
17 judgment but before the filing of the petition, nor affect any
18 right of any person not a party to the original action under
19 any certificate of sale issued before the filing of the
20 petition, pursuant to a sale based on the order or judgment.

21 (f) Nothing contained in this Section affects any existing
22 right to relief from a void order or judgment, or to employ any
23 existing method to procure that relief.

24 (g) This Section does not apply to petitions filed under
25 Section 5-5-4.05 of the Unified Code of Corrections.

26 (Source: P.A. 95-331, eff. 8-21-07.)