



Sen. Elgie R. Sims, Jr.

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10300HB1015sam001

LRB103 04736 LNS 64660 a

1 AMENDMENT TO HOUSE BILL 1015

2 AMENDMENT NO. _____. Amend House Bill 1015 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 court shall make an award
18 of \$50,000 per year, and prorated for any partial year,
19 during which the person was wrongfully incarcerated in a
20 State prison, in a county jail, in a county juvenile
21 detention facility, or in a Illinois Youth Center,
22 including the time the person was incarcerated awaiting
23 trial, and \$25,000 for each year, and prorated for any
24 partial year, during which the person was wrongfully on
25 parole or probation or required to register as a sex
26 offender. The court shall make an additional award of

1 reasonable attorney's fees, costs, and expenses in an
2 amount determined by the circuit court after awarding a
3 certificate of innocence under Section 2-702 of the Code
4 of Civil Procedure. The ; ~~provided, the amount of the~~
5 ~~award is at the discretion of the court; and provided, the~~
6 ~~court shall make no award in excess of the following~~
7 ~~amounts: for imprisonment of 5 years or less, not more~~
8 ~~than \$85,350; for imprisonment of 14 years or less but~~
9 ~~over 5 years, not more than \$170,000; for imprisonment of~~
10 ~~over 14 years, not more than \$199,150; and provided~~
11 ~~further, the court shall fix attorney's fees not to exceed~~
12 ~~25% of the award granted. On or after the effective date of~~
13 ~~this amendatory Act of the 95th General Assembly, the~~
14 court shall annually adjust the ~~maximum~~ awards required
15 ~~authorized~~ by this subsection (c) to reflect the increase,
16 if any, in the Consumer Price Index For All Urban
17 Consumers for the previous calendar year, as determined by
18 the United States Department of Labor, except that no
19 annual increment may exceed 5%. For the annual
20 adjustments, if the Consumer Price Index decreases during
21 a calendar year, there shall be no adjustment for that
22 calendar year. The transmission by the Prisoner Review
23 Board or the clerk of the circuit court of the information
24 described in Section 11(b) to the clerk of the Court of
25 Claims is conclusive evidence of the validity of the
26 claim. The changes made by Public Act 95-970 ~~this~~

1 ~~amendatory Act of the 95th General Assembly~~ apply to all
2 claims pending on or filed on or after September 22, 2008
3 (the effective date of Public Act 95-970). The changes
4 made by this amendatory Act of the 103rd General Assembly
5 apply to all claims pending or filed on or after the
6 effective date of this amendatory Act of the 103rd General
7 Assembly.

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

1 limit prescribed by this Section does not apply to an
2 award of damages in any case sounding in tort arising out
3 of the operation by a State employee of a vehicle owned,
4 leased or controlled by the State. The defense that the
5 State or the Medical Center Commission or the Board of
6 Trustees of the University of Illinois, the Board of
7 Trustees of Southern Illinois University, the Board of
8 Trustees of Chicago State University, the Board of
9 Trustees of Eastern Illinois University, the Board of
10 Trustees of Governors State University, the Board of
11 Trustees of Illinois State University, the Board of
12 Trustees of Northeastern Illinois University, the Board of
13 Trustees of Northern Illinois University, the Board of
14 Trustees of Western Illinois University, or the Board of
15 Trustees of the Illinois Mathematics and Science Academy
16 is not liable for the negligence of its officers, agents,
17 and employees in the course of their employment is not
18 applicable to the hearing and determination of such
19 claims. The changes to this Section made by this
20 amendatory Act of the 100th General Assembly apply only to
21 claims filed on or after July 1, 2015.

22 The court shall annually adjust the maximum awards
23 authorized by this subsection to reflect the increase, if
24 any, in the Consumer Price Index For All Urban Consumers
25 for the previous calendar year, as determined by the
26 United States Department of Labor. The Comptroller shall

1 make the new amount resulting from each annual adjustment
2 available to the public via the Comptroller's official
3 website by January 31 of every year.

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

6 (f) All claims pursuant to the Line of Duty
7 Compensation Act. A claim under that Act must be heard and
8 determined within one year after the application for that
9 claim is filed with the Court as provided in that Act.

10 (g) All claims filed pursuant to the Crime Victims
11 Compensation Act.

12 (h) All claims pursuant to the Illinois National
13 Guardsman's Compensation Act. A claim under that Act must
14 be heard and determined within one year after the
15 application for that claim is filed with the Court as
16 provided in that Act.

17 (i) All claims authorized by subsection (a) of Section
18 10-55 of the Illinois Administrative Procedure Act for the
19 expenses incurred by a party in a contested case on the
20 administrative level.

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

22 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

23 Sec. 11. Filing claims.

24 (a) Except as otherwise provided in subsection (b) of this
25 Section and subsection (4) of Section 24, the claimant shall

1 in all cases set forth fully in his petition the claim, the
2 action thereon, if any, on behalf of the State, what persons
3 are owners thereof or interested therein, when and upon what
4 consideration such persons became so interested; that no
5 assignment or transfer of the claim or any part thereof or
6 interest therein has been made, except as stated in the
7 petition; that the claimant is justly entitled to the amount
8 therein claimed from the State of Illinois, after allowing all
9 just credits; and that claimant believes the facts stated in
10 the petition to be true. The petition shall be verified, as to
11 statements of facts, by the affidavit of the claimant, his
12 agent, or attorney.

13 (b) Whenever a person has been convicted or adjudicated a
14 delinquent ~~served a term of imprisonment~~ and has received a
15 pardon by the Governor stating that such pardon was issued on
16 the ground of innocence of the crime for which he or she was
17 convicted or adjudicated a delinquent ~~imprisoned~~, the Prisoner
18 Review Board shall transmit this information to the clerk of
19 the Court of Claims, together with the claimant's current
20 address. Whenever a person ~~has served a term of imprisonment~~
21 ~~and~~ has received a certificate of innocence from the Circuit
22 Court as provided in Section 2-702 of the Code of Civil
23 Procedure, the clerk of the issuing Circuit Court shall
24 transmit this information to the clerk of the Court of Claims,
25 together with the claimant's current address. The clerk of the
26 Court of Claims shall immediately docket the case for

1 consideration by the Court of Claims, and shall provide notice
2 to the claimant of such docketing together with all hearing
3 dates and applicable deadlines. The Court of Claims shall hear
4 the case and render a decision within 90 days after its
5 docketing.

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

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

9 (735 ILCS 5/2-702)

10 Sec. 2-702. Petition for a certificate of innocence that
11 the petitioner was innocent of all offenses for which he or she
12 was incarcerated.

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

1 regarding the weight and admissibility of evidence submitted
2 pursuant to this Section, shall, in the interest of justice,
3 give due consideration to difficulties of proof caused by the
4 passage of time, the death or unavailability of witnesses, the
5 destruction of evidence or other factors not caused by such
6 persons or those acting on their behalf.

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

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

25 (1) he or she has been convicted or adjudicated a
26 delinquent of one or more felonies by the State of

1 Illinois ~~and subsequently sentenced to a term of~~
2 ~~imprisonment~~, and has served all or any part of the
3 sentence; and

4 (2) his or her judgment of conviction or delinquency
5 adjudication was reversed or vacated, and the charge
6 ~~indictment or information~~ dismissed or, if a new trial was
7 ordered, either he or she was found not guilty at the new
8 trial or he or she was not retried and the charge
9 ~~indictment or information~~ dismissed; or the statute, or
10 application thereof, on which the charge ~~indictment or~~
11 ~~information~~ was based violated the Constitution of the
12 United States or the State of Illinois; and

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

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

1 (e) A copy of the petition shall be served on the Attorney
2 General and the State's Attorney of the county where the
3 conviction or juvenile delinquency adjudication was had. The
4 Attorney General and the State's Attorney of the county where
5 the conviction or juvenile delinquency adjudication was had
6 shall have the right to intervene as parties.

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

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

16 (1) the petitioner was convicted or adjudicated a
17 delinquent of one or more felonies by the State of
18 Illinois and subsequently sentenced ~~to a term of~~
19 ~~imprisonment~~, and has served all or any part of the
20 sentence;

21 (2) (A) the judgment of conviction or adjudication was
22 reversed or vacated, and the charge ~~indictment or~~
23 ~~information~~ dismissed or, if a new trial was ordered,
24 either the petitioner was found not guilty at the new
25 trial or the petitioner was not retried and the charge
26 ~~indictment or information~~ dismissed; or (B) the statute,

1 or application thereof, on which the charge ~~indictment or~~
2 ~~information~~ was based violated the Constitution of the
3 United States or the State of Illinois;

4 (3) the petitioner is innocent of one or more of the
5 offenses for which he or she was convicted or adjudicated
6 a delinquent or his or her acts or omissions for which he
7 or she was convicted or adjudicated a delinquent ~~charged~~
8 ~~in the indictment or information or his or her acts or~~
9 ~~omissions charged in the indictment or information~~ did not
10 constitute a felony or misdemeanor against the State; and

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

14 (h) If the court finds that the petitioner is entitled to a
15 judgment, it shall enter a certificate of innocence finding
16 that the petitioner was innocent of one or more ~~all~~ offenses
17 for which he or she was convicted or adjudicated a delinquent.
18 The court shall also make a determination, subject to proof by
19 the claimant, of the reasonable attorney's fees, costs, and
20 expenses incurred by the claimant in connection with obtaining
21 the certificate of innocence under this Section ~~incarcerated~~.
22 Upon entry of the certificate of innocence or pardon from the
23 Governor stating that such pardon was issued on the ground of
24 innocence of the crime for which he or she was convicted or
25 adjudicated a delinquent ~~imprisoned~~, (1) the clerk of the
26 court shall transmit a copy of the certificate of innocence to

1 the clerk of the Court of Claims, together with the claimant's
2 current address; and (2) the court shall enter an order
3 expunging the record of arrest from the official records of
4 the arresting authority and order that the records of the
5 clerk of the circuit court and the Illinois State Police be
6 sealed until further order of the court upon good cause shown
7 or as otherwise provided herein, and the name of the defendant
8 or respondent in a juvenile delinquency proceeding obliterated
9 from the official index requested to be kept by the circuit
10 court clerk under Section 16 of the Clerks of Courts Act in
11 connection with the arrest and conviction or delinquency
12 adjudication for the offense but the order shall not affect
13 any index issued by the circuit court clerk before the entry of
14 the order. The court shall enter the expungement order
15 regardless of whether the petitioner has prior criminal
16 convictions or delinquency adjudications.

17 All records sealed by the Illinois State Police may be
18 disseminated by the Department only as required by law or to
19 the arresting authority, the State's Attorney, the court upon
20 a later arrest for the same or similar offense, or for the
21 purpose of sentencing for any subsequent felony. Upon
22 conviction for any subsequent offense, the Department of
23 Corrections shall have access to all sealed records of the
24 Department pertaining to that individual.

25 Upon entry of the order of expungement, the clerk of the
26 circuit court shall promptly mail a copy of the order to the

1 person whose records were expunged and sealed.

2 (i) Any person seeking a certificate of innocence under
3 this Section based on the dismissal of an indictment or
4 information or acquittal that occurred before September 22,
5 2008 (the effective date of Public Act 95-970) ~~this amendatory~~
6 Act of the 95th General Assembly shall file his or her petition
7 within 2 years after September 22, 2008 (the effective date of
8 Public Act 95-970) ~~this amendatory Act of the 95th General~~
9 Assembly. Any person seeking a certificate of innocence under
10 this Section based on the dismissal of an indictment or
11 information or acquittal that occurred on or after September
12 22, 2008 (the effective date of Public Act 95-970) ~~this~~
13 amendatory Act of the 95th General Assembly shall file his or
14 her petition within 2 years after the dismissal or acquittal.
15 Any person seeking a certificate of innocence under this
16 Section based on the dismissal of a juvenile delinquency
17 petition or an acquittal on such petition that occurred before
18 the effective date of this amendatory Act of the 103rd General
19 Assembly, including a petitioner whose petition was denied
20 solely on the basis that this Section did not formerly apply to
21 juvenile delinquency adjudications, shall file his or her
22 petition within 4 years after the effective date of this
23 amendatory Act of the 103rd General Assembly. Any person
24 seeking a certificate of innocence under this Section based on
25 the dismissal of a juvenile delinquency petition or an
26 acquittal on such petition that occurred on or after the

1 effective date of this amendatory Act of the 103rd General
2 Assembly shall file his or her petition within 2 years after
3 the dismissal or acquittal.

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

8 (Source: P.A. 102-538, eff. 8-20-21.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".