

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 Code of Civil Procedure is amended by
5 changing Section 2-1401 as follows:

6 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

7 Sec. 2-1401. Relief from judgments.

8 (a) Relief from final orders and judgments, after 30 days
9 from the entry thereof, may be had upon petition as provided in
10 this Section. Writs of error coram nobis and coram vobis,
11 bills of review, and bills in the nature of bills of review are
12 abolished. All relief heretofore obtainable and the grounds
13 for such relief heretofore available, whether by any of the
14 foregoing remedies or otherwise, shall be available in every
15 case, by proceedings hereunder, regardless of the nature of
16 the order or judgment from which relief is sought or of the
17 proceedings in which it was entered. Except as provided in the
18 Illinois Parentage Act of 2015, there shall be no distinction
19 between actions and other proceedings, statutory or otherwise,
20 as to availability of relief, grounds for relief, or the
21 relief obtainable.

22 (b) The petition must be filed in the same proceeding in
23 which the order or judgment was entered but is not a

1 continuation thereof. The petition must be supported by an
2 affidavit or other appropriate showing as to matters not of
3 record. A petition to reopen a foreclosure proceeding must
4 include as parties to the petition, but is not limited to, all
5 parties in the original action in addition to the current
6 record title holders of the property, current occupants, and
7 any individual or entity that had a recorded interest in the
8 property before the filing of the petition. All parties to the
9 petition shall be notified as provided by rule.

10 (b-5) A movant may present a meritorious claim under this
11 Section if the allegations in the petition establish each of
12 the following by a preponderance of the evidence:

13 (1) the movant was convicted of a forcible felony;

14 (2) the movant's participation in the offense was
15 related to him or her previously having been a victim of
16 domestic violence or gender-based violence ~~as perpetrated~~
17 ~~by an intimate partner;~~

18 (3) no substantial evidence or incomplete evidence of
19 domestic violence or gender-based violence against the
20 movant was presented at the movant's sentencing hearing;

21 (4) (blank) ~~the movant was unaware of the mitigating~~
22 ~~nature of the evidence of the domestic violence at the~~
23 ~~time of sentencing and could not have learned of its~~
24 ~~significance sooner through diligence; and~~

25 (5) the ~~new~~ evidence of domestic violence or
26 gender-based violence against the movant is material and

1 noncumulative to other evidence offered at the sentencing
2 hearing, or previous hearing under this Section filed on
3 or after the effective date of this amendatory Act of the
4 103rd General Assembly, and is of such a conclusive
5 character that it would likely change the sentence imposed
6 by the original trial court.

7 Nothing in this subsection (b-5) shall prevent a movant
8 from applying for any other relief under this Section or any
9 other law otherwise available to him or her.

10 As used in this subsection (b-5):

11 "Domestic violence" means abuse as defined in Section
12 103 of the Illinois Domestic Violence Act of 1986.

13 "Forcible felony" has the meaning ascribed to the term
14 in Section 2-8 of the Criminal Code of 2012.

15 "Gender-based violence" means the perpetration of
16 "serious harm" as defined in Section 10-9 of the Criminal
17 Code of 2012.

18 "Intimate partner" means a spouse or former spouse,
19 persons who have or allegedly have had a child in common,
20 or persons who have or have had a dating or engagement
21 relationship.

22 (b-10) A movant may present a meritorious claim under this
23 Section if the allegations in the petition establish each of
24 the following by a preponderance of the evidence:

25 (A) she was convicted of a forcible felony;

26 (B) her participation in the offense was a direct

1 result of her suffering from post-partum depression or
2 post-partum psychosis;

3 (C) no evidence of post-partum depression or
4 post-partum psychosis was presented by a qualified medical
5 person at trial or sentencing, or both;

6 (D) she was unaware of the mitigating nature of the
7 evidence or, if aware, was at the time unable to present
8 this defense due to suffering from post-partum depression
9 or post-partum psychosis, or, at the time of trial or
10 sentencing, neither was a recognized mental illness and as
11 such, she was unable to receive proper treatment; and

12 (E) evidence of post-partum depression or post-partum
13 psychosis as suffered by the person is material and
14 noncumulative to other evidence offered at the time of
15 trial or sentencing, and it is of such a conclusive
16 character that it would likely change the sentence imposed
17 by the original court.

18 Nothing in this subsection (b-10) prevents a person from
19 applying for any other relief under this Article or any other
20 law otherwise available to her.

21 As used in this subsection (b-10):

22 "Post-partum depression" means a mood disorder which
23 strikes many women during and after pregnancy and usually
24 occurs during pregnancy and up to 12 months after
25 delivery. This depression can include anxiety disorders.

26 "Post-partum psychosis" means an extreme form of

1 post-partum depression which can occur during pregnancy
2 and up to 12 months after delivery. This can include
3 losing touch with reality, distorted thinking, delusions,
4 auditory and visual hallucinations, paranoia,
5 hyperactivity and rapid speech, or mania.

6 (c) Except as provided in Section 20b of the Adoption Act
7 and Section 2-32 of the Juvenile Court Act of 1987, in a
8 petition based upon Section 116-3 of the Code of Criminal
9 Procedure of 1963 or subsection (b-5) or (b-10) of this
10 Section, or in a motion to vacate and expunge convictions
11 under the Cannabis Control Act as provided by subsection (i)
12 of Section 5.2 of the Criminal Identification Act, the
13 petition must be filed not later than 2 years after the entry
14 of the order or judgment. Time during which the person seeking
15 relief is under legal disability or duress or the ground for
16 relief is fraudulently concealed shall be excluded in
17 computing the period of 2 years.

18 (c-5) Any individual may at any time file a petition and
19 institute proceedings under this Section if his or her final
20 order or judgment, which was entered based on a plea of guilty
21 or nolo contendere, has potential consequences under federal
22 immigration law.

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

25 (e) Unless lack of jurisdiction affirmatively appears from
26 the record proper, the vacation or modification of an order or

1 judgment pursuant to the provisions of this Section does not
2 affect the right, title, or interest in or to any real or
3 personal property of any person, not a party to the original
4 action, acquired for value after the entry of the order or
5 judgment but before the filing of the petition, nor affect any
6 right of any person not a party to the original action under
7 any certificate of sale issued before the filing of the
8 petition, pursuant to a sale based on the order or judgment.
9 When a petition is filed pursuant to this Section to reopen a
10 foreclosure proceeding, notwithstanding the provisions of
11 Section 15-1701 of this Code, the purchaser or successor
12 purchaser of real property subject to a foreclosure sale who
13 was not a party to the mortgage foreclosure proceedings is
14 entitled to remain in possession of the property until the
15 foreclosure action is defeated or the previously foreclosed
16 defendant redeems from the foreclosure sale if the purchaser
17 has been in possession of the property for more than 6 months.

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

21 (Source: P.A. 101-27, eff. 6-25-19; 101-411, eff. 8-16-19;
22 102-639, eff. 8-27-21; 102-813, eff. 5-13-22.)