



Rep. Kelly M. Cassidy

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10300SB2260ham001

LRB103 28985 LNS 60781 a

1 AMENDMENT TO SENATE BILL 2260

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2260 by replacing  
3 everything after the enacting clause with the following:

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

1 proceedings in which it was entered. Except as provided in the  
2 Illinois Parentage Act of 2015, there shall be no distinction  
3 between actions and other proceedings, statutory or otherwise,  
4 as to availability of relief, grounds for relief, or the  
5 relief obtainable.

6 (b) The petition must be filed in the same proceeding in  
7 which the order or judgment was entered but is not a  
8 continuation thereof. The petition must be supported by an  
9 affidavit or other appropriate showing as to matters not of  
10 record. A petition to reopen a foreclosure proceeding must  
11 include as parties to the petition, but is not limited to, all  
12 parties in the original action in addition to the current  
13 record title holders of the property, current occupants, and  
14 any individual or entity that had a recorded interest in the  
15 property before the filing of the petition. All parties to the  
16 petition shall be notified as provided by rule.

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

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

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

25 (3) there is substantial ~~no~~ evidence of domestic  
26 violence or gender-based violence against the movant that

1 was not presented at the movant's sentencing hearing;

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

6 (5) the ~~new~~ evidence of domestic violence or  
7 gender-based violence against the movant is material and  
8 noncumulative to other evidence offered at the sentencing  
9 hearing, or previous hearing under this Section filed on  
10 or after the effective date of this amendatory Act of the  
11 103rd General Assembly, and is of such a conclusive  
12 character that it would likely change the sentence imposed  
13 by the original trial court.

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

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

18 "Domestic violence" means abuse as defined in Section  
19 103 of the Illinois Domestic Violence Act of 1986.

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

22 "Gender-based violence" includes evidence of  
23 victimization as a trafficking victim, as defined by  
24 paragraph (10) of subsection (a) of Section 10-9 of the  
25 Criminal Code of 2012, evidence of victimization under the  
26 Illinois Domestic Violence Act of 1986, evidence of

1       victimization under the Stalking No Contact Order Act, or  
2       evidence of victimization of any offense under Article 11  
3       of the Criminal Code of 2012, irrespective of criminal  
4       prosecution or conviction.

5               "Intimate partner" means a spouse or former spouse,  
6       persons who have or allegedly have had a child in common,  
7       or persons who have or have had a dating or engagement  
8       relationship.

9               "Substantial evidence" means evidence that a  
10       reasonable mind might accept as adequate to support a  
11       conclusion.

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

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

16               (B) her participation in the offense was a direct  
17       result of her suffering from post-partum depression or  
18       post-partum psychosis;

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

22               (D) she was unaware of the mitigating nature of the  
23       evidence or, if aware, was at the time unable to present  
24       this defense due to suffering from post-partum depression  
25       or post-partum psychosis, or, at the time of trial or  
26       sentencing, neither was a recognized mental illness and as

1 such, she was unable to receive proper treatment; and

2 (E) evidence of post-partum depression or post-partum  
3 psychosis as suffered by the person is material and  
4 noncumulative to other evidence offered at the time of  
5 trial or sentencing, and it is of such a conclusive  
6 character that it would likely change the sentence imposed  
7 by the original court.

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

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

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

16 "Post-partum psychosis" means an extreme form of  
17 post-partum depression which can occur during pregnancy  
18 and up to 12 months after delivery. This can include  
19 losing touch with reality, distorted thinking, delusions,  
20 auditory and visual hallucinations, paranoia,  
21 hyperactivity and rapid speech, or mania.

22 (c) Except as provided in Section 20b of the Adoption Act  
23 and Section 2-32 of the Juvenile Court Act of 1987, in a  
24 petition based upon Section 116-3 of the Code of Criminal  
25 Procedure of 1963 or subsection (b-5) or (b-10) of this  
26 Section, or in a motion to vacate and expunge convictions

1 under the Cannabis Control Act as provided by subsection (i)  
2 of Section 5.2 of the Criminal Identification Act, the  
3 petition must be filed not later than 2 years after the entry  
4 of the order or judgment. Time during which the person seeking  
5 relief is under legal disability or duress or the ground for  
6 relief is fraudulently concealed shall be excluded in  
7 computing the period of 2 years.

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

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

15 (e) Unless lack of jurisdiction affirmatively appears from  
16 the record proper, the vacation or modification of an order or  
17 judgment pursuant to the provisions of this Section does not  
18 affect the right, title, or interest in or to any real or  
19 personal property of any person, not a party to the original  
20 action, acquired for value after the entry of the order or  
21 judgment but before the filing of the petition, nor affect any  
22 right of any person not a party to the original action under  
23 any certificate of sale issued before the filing of the  
24 petition, pursuant to a sale based on the order or judgment.  
25 When a petition is filed pursuant to this Section to reopen a  
26 foreclosure proceeding, notwithstanding the provisions of

1 Section 15-1701 of this Code, the purchaser or successor  
2 purchaser of real property subject to a foreclosure sale who  
3 was not a party to the mortgage foreclosure proceedings is  
4 entitled to remain in possession of the property until the  
5 foreclosure action is defeated or the previously foreclosed  
6 defendant redeems from the foreclosure sale if the purchaser  
7 has been in possession of the property for more than 6 months.

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

11 (Source: P.A. 101-27, eff. 6-25-19; 101-411, eff. 8-16-19;  
12 102-639, eff. 8-27-21; 102-813, eff. 5-13-22.)".