



Sen. Robert Peters

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10300SB2260sam002

LRB103 28985 RLC 58923 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) no substantial evidence or incomplete evidence of
26 domestic violence or gender-based violence against the

1 movant was 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" means the perpetration of
23 "serious harm" as defined in Section 10-9 of the Criminal
24 Code of 2012.

25 "Intimate partner" means a spouse or former spouse,
26 persons who have or allegedly have had a child in common,

1 or persons who have or have had a dating or engagement
2 relationship.

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

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

7 (B) her participation in the offense was a direct
8 result of her suffering from post-partum depression or
9 post-partum psychosis;

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

13 (D) she was unaware of the mitigating nature of the
14 evidence or, if aware, was at the time unable to present
15 this defense due to suffering from post-partum depression
16 or post-partum psychosis, or, at the time of trial or
17 sentencing, neither was a recognized mental illness and as
18 such, she was unable to receive proper treatment; and

19 (E) evidence of post-partum depression or post-partum
20 psychosis as suffered by the person is material and
21 noncumulative to other evidence offered at the time of
22 trial or sentencing, and it is of such a conclusive
23 character that it would likely change the sentence imposed
24 by the original court.

25 Nothing in this subsection (b-10) prevents a person from
26 applying for any other relief under this Article or any other

1 law otherwise available to her.

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

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

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

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

25 (c-5) Any individual may at any time file a petition and
26 institute proceedings under this Section if his or her final

1 order or judgment, which was entered based on a plea of guilty
2 or nolo contendere, has potential consequences under federal
3 immigration law.

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

6 (e) Unless lack of jurisdiction affirmatively appears from
7 the record proper, the vacation or modification of an order or
8 judgment pursuant to the provisions of this Section does not
9 affect the right, title, or interest in or to any real or
10 personal property of any person, not a party to the original
11 action, acquired for value after the entry of the order or
12 judgment but before the filing of the petition, nor affect any
13 right of any person not a party to the original action under
14 any certificate of sale issued before the filing of the
15 petition, pursuant to a sale based on the order or judgment.
16 When a petition is filed pursuant to this Section to reopen a
17 foreclosure proceeding, notwithstanding the provisions of
18 Section 15-1701 of this Code, the purchaser or successor
19 purchaser of real property subject to a foreclosure sale who
20 was not a party to the mortgage foreclosure proceedings is
21 entitled to remain in possession of the property until the
22 foreclosure action is defeated or the previously foreclosed
23 defendant redeems from the foreclosure sale if the purchaser
24 has been in possession of the property for more than 6 months.

25 (f) Nothing contained in this Section affects any existing
26 right to relief from a void order or judgment, or to employ any

1 existing method to procure that relief.

2 (Source: P.A. 101-27, eff. 6-25-19; 101-411, eff. 8-16-19;

3 102-639, eff. 8-27-21; 102-813, eff. 5-13-22.)".