



# John Howard Association of Illinois

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## Petition for Certificate of Innocence (735 ILCS 5/2-702)

<b>Where to File</b>	County where conviction was had
<b>Service:</b>	Copies to be served to County State’s Attorney and Attorney General
<b>Relief Requested:</b>	Certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated.
<b>Burden of Proof:</b>	Preponderance of the Evidence

### 1. Petition

The petition shall state sufficient facts to the court that would succeed at trial in proving that the petitioner is **innocent**.

To obtain a Certificate of Innocence, Petitioner must prove, **by a preponderance of evidence** each of the following (must prove all):

- Petitioner was convicted of one or more felonies in Illinois, and
- Petitioner was sentenced to a term of imprisonment, and
- Petitioner served all or a part of that sentence, and
- Petitioner’s conviction was dismissed (judgment or conviction was reversed, judgment or conviction was vacated, new trial was ordered and was found not guilty, new trial ordered and not retried and the indictment or information dismissed, statute or application of statute on which information or indictment was based was unconstitutional), and
- Petitioner is innocent of offenses charged or his acts or omissions charged in the indictment did not constitute a felony or misdemeanor against the state, and
- Petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction.

### 2. Attachments to Petition

The following documents must be attached to the petition to demonstrate that:

Petitioner had a Felony Conviction (check ALL)

- He or she was convicted of one or more felonies in Illinois
- Sentenced to a Term of Imprisonment
- Has served all or a part of that sentence

(continued on reverse)

Petitioner's Conviction was Dismissed (check one)

- Judgment or conviction was reversed
- Judgment or conviction was vacated
- New trial was ordered and was found not guilty
- New trial ordered and not retried and the indictment or information dismissed
- Statute or application of statute on which information or indictment was based was unconstitutional

Petitioner's Claim is not time barred (check one)

- If acquittal, dismissal, reversal, etc. issued prior to September 22, 2008, petitioner has two years of effective date to file petition for Certificate of Innocence.
- If acquittal, dismissal, reversal, etc. issues after effective date of this act, Petitioner has two years from dismissal to file petition for Certificate of Innocence.

**3. Miscellaneous Requirements**

Petition shall be verified by petitioner.

Court may take judicial notice of prior sworn testimony or evidence admitted at trial **if** the petitioner was represented by counsel at the prior proceeding or the right to counsel was knowingly waived.