



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1453

Introduced 2/13/2019, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

10 ILCS 5/25-2	from Ch. 46, par. 25-2
10 ILCS 5/29-15	from Ch. 46, par. 29-15
60 ILCS 1/55-6	
65 ILCS 5/3.1-10-5	from Ch. 24, par. 3.1-10-5
105 ILCS 5/10-11	from Ch. 122, par. 10-11
730 ILCS 5/5-5-5	from Ch. 38, par. 1005-5-5

Amends the Election Code, the Township Code, the Illinois Municipal Code, and the School Code to provide exemptions and requirements allowing a person previously convicted of an infamous crime to hold elective office. Amends the Unified Code of Corrections. Provides that conviction and disposition shall not entail the loss by the defendant of any civil rights except, in addition to other specified provisions, as provided in a provision of the Election Code concerning convictions for infamous crimes. Effective immediately.

LRB101 09702 SMS 54801 b

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing
5 Sections 25-2 and 29-15 as follows:

6 (10 ILCS 5/25-2) (from Ch. 46, par. 25-2)

7 Sec. 25-2. Events on which an elective office becomes
8 vacant. Every elective office shall become vacant on the
9 happening of any of the following events before the expiration
10 of the term of such office:

11 (1) The death of the incumbent.

12 (2) His or her resignation.

13 (3) His or her becoming a person under legal
14 disability.

15 (4) His or her ceasing to be an inhabitant of the
16 State; or if the office is local, his or her ceasing to be
17 an inhabitant of the district, county, town, or precinct
18 for which he or she was elected; provided, that the
19 provisions of this paragraph shall not apply to township
20 officers whose township boundaries are changed in
21 accordance with Section 10-20 of the Township Code, to a
22 township officer after disconnection as set forth in
23 Section 15-17 of the Township Code, nor to township or

1 multi-township assessors elected under Sections 2-5
2 through 2-15 of the Property Tax Code.

3 (5) His or her conviction of an infamous crime, or of
4 any offense involving a violation of official oath.

5 (6) His or her removal from office.

6 (7) His or her refusal or neglect to take his or her
7 oath of office, or to give or renew his or her official
8 bond, or to deposit or file such oath or bond within the
9 time prescribed by law.

10 (8) The decision of a competent tribunal declaring his
11 or her election void.

12 No elective office, except as herein otherwise provided,
13 shall become vacant until the successor of the incumbent of
14 such office has been appointed or elected, as the case may be,
15 and qualified.

16 An unconditional resignation, effective at a future date,
17 may not be withdrawn after it is received by the officer
18 authorized to fill the vacancy. Such resignation shall create a
19 vacancy in office for the purpose of determining the time
20 period which would require an election. The resigning office
21 holder may continue to hold such office until the date or event
22 specified in such resignation, but no later than the date at
23 which his or her successor is elected and qualified.

24 An admission of guilt of a criminal offense that would,
25 upon conviction, disqualify the holder of an elective office
26 from holding that office, in the form of a written agreement

1 with State or federal prosecutors to plead guilty to a felony,
2 bribery, perjury, or other infamous crime under State or
3 federal law, shall constitute a resignation from that office,
4 effective at the time the plea agreement is made.

5 For purposes of this Section, a conviction for an offense
6 that disqualifies the holder of an elective office from holding
7 that office shall occur on the date of the return of a guilty
8 verdict or, in the case of a trial by the court, the entry of a
9 finding of guilt.

10 For the purposes of this Section, an elective office does
11 not become vacant if the person previously convicted of an
12 infamous crime: (i) received a pardon for the offense or the
13 right of the person to hold elective office has been otherwise
14 restored by executive or judicial action; (ii) has completed
15 the sentence ordered by the court for the offense at least 15
16 years prior to taking office, has not had another felony
17 criminal conviction in the 15 years following the completion of
18 the sentence, and, prior to taking office or within 30 days
19 after the effective date of this amendatory Act of the 101st
20 General Assembly (including individuals and candidates elected
21 at the last preceding election after the effective date of this
22 paragraph), whichever is later, has submitted to the
23 appropriate election authority a signed and sworn affidavit
24 which includes the date of all criminal convictions, the date
25 of completion of any sentences, and an assertion that the
26 person believes he or she qualifies under this exemption; or

1 (iii) is otherwise eligible according to law. An affidavit
2 submitted under item (ii) of this paragraph shall also be
3 submitted to the appropriate State's Attorney's Office.
4 However, this paragraph shall not apply to a person who is a
5 child sex offender as defined in Section 11-9.3 of the Criminal
6 Code of 2012.

7 ~~This Section does not apply to any elected or appointed~~
8 ~~officers or officials of any municipality having a population~~
9 ~~under 500,000.~~

10 (Source: P.A. 94-529, eff. 8-10-05; 95-646, eff. 1-1-08.)

11 (10 ILCS 5/29-15) (from Ch. 46, par. 29-15)

12 Sec. 29-15. Conviction deemed infamous. Any person
13 convicted of an infamous crime as such term is defined in
14 Section 124-1 of the Code of Criminal Procedure of 1963, as
15 amended, shall thereafter be prohibited from holding any office
16 of honor, trust, or profit, unless: (1) that person's right to
17 hold elective office has been restored by the terms of a pardon
18 for the offense, or by executive or judicial action; (2) that
19 person has completed the sentence ordered by the court for the
20 offense at least 15 years prior to taking office, has not had
21 another felony criminal conviction in the 15 years following
22 the completion of the sentence, and has submitted to the
23 appropriate election authority a signed and sworn affidavit
24 which includes the date of all criminal convictions, the date
25 of completion of any sentences, and an assertion that the

1 person believes he or she qualifies under this exemption; or
2 (3) that person is otherwise eligible according to law such
3 person is again restored to such rights by the terms of a
4 pardon for the offense or otherwise according to law.

5 Any person seeking office under exemption (2) of this
6 Section must submit, with his or her nomination papers, a
7 signed affidavit asserting that exemption. No candidate
8 required to file the affidavit under this Section shall qualify
9 as a candidate for election or nomination unless he or she
10 files the affidavit asserting an exemption with the appropriate
11 officer by the end of the period for the filing of nomination
12 papers. A person seeking election or nomination as a write-in
13 candidate who would otherwise be required to file an affidavit
14 under exemption (2) of this Section shall file the affidavit
15 with his or her declaration of intent to be a write-in
16 candidate. The filing of a false affidavit of exemption shall
17 disqualify a candidate or officeholder in addition to other
18 penalties provided by law. Objections to the affidavit
19 asserting an exemption shall be governed by Sections 10-8
20 through 10-10.1 of the Election Code with the same procedures
21 as objections to certificates of nomination and nomination
22 papers, hearings on objections, and judicial review. If
23 required, failure to file an affidavit asserting an exemption
24 under this Section with nomination papers or failure to
25 otherwise file the affidavit within 30 days after the effective
26 date of this amendatory Act of the 101st General Assembly,

1 whichever is later, or filing a false affidavit asserting an
2 exemption, shall constitute grounds for immediate removal from
3 office by the appropriate authority as provided by law.
4 Exemption (2) of this Section shall not apply to a person who
5 is a child sex offender as defined in Section 11-9.3 of the
6 Criminal Code of 2012.

7 (Source: P.A. 83-1097.)

8 Section 10. The Township Code is amended by changing
9 Section 55-6 as follows:

10 (60 ILCS 1/55-6)

11 Sec. 55-6. Criminal conviction. A person is not eligible to
12 hold any office if that person, at the time required for taking
13 the oath of office, has been convicted in any court located in
14 the United States of any infamous crime, bribery, perjury, or
15 other felony unless: (1) that person's right to hold elective
16 office has been restored by the terms of a pardon for the
17 offense, or by executive or judicial action; (2) that person
18 has completed the sentence ordered by the court for the offense
19 at least 15 years prior to taking office, has not had another
20 felony criminal conviction in the 15 years following the
21 completion of the sentence, and has submitted to the
22 appropriate election authority a signed and sworn affidavit
23 which includes the date of all criminal convictions, the date
24 of completion of any sentences, and an assertion that the

1 person believes he or she qualifies under this exemption; or
2 (3) is otherwise eligible according to law.

3 The person seeking office under exemption (2) of this
4 Section must submit, with his or her nomination papers, a
5 signed affidavit asserting that exemption. No candidate
6 required to file the affidavit under this Section shall qualify
7 as a candidate for election or nomination unless he or she
8 files the affidavit asserting an exemption with the appropriate
9 officer by the end of the relevant period for the filing of
10 nomination papers. The filing of a false affidavit of exemption
11 shall disqualify a candidate, in addition to other penalties
12 provided by law. Objections to the affidavit asserting an
13 exemption shall be governed by Sections 10-8 through 10-10.1 of
14 the Election Code with the same procedure as objections to
15 certificates of nomination and nomination papers, hearings on
16 objections, and judicial review. If required, failure to file
17 an affidavit asserting an exemption under this Section with
18 nomination papers or failure to otherwise file the affidavit
19 within 30 days after the effective date of this amendatory Act
20 of the 101st General Assembly, whichever is later, or filing a
21 false affidavit asserting an exemption, shall constitute
22 grounds for immediate removal from office by the appropriate
23 authority as provided by law. Exemption (2) of this Section
24 shall not apply to a person who is a child sex offender as
25 defined in Section 11-9.3 of the Criminal Code of 2012.

26 (Source: P.A. 99-546, eff. 7-15-16.)

1 Section 15. The Illinois Municipal Code is amended by
2 changing Section 3.1-10-5 as follows:

3 (65 ILCS 5/3.1-10-5) (from Ch. 24, par. 3.1-10-5)

4 Sec. 3.1-10-5. Qualifications; elective office.

5 (a) A person is not eligible for an elective municipal
6 office unless that person is a qualified elector of the
7 municipality and has resided in the municipality at least one
8 year next preceding the election or appointment, except as
9 provided in Section 3.1-20-25, subsection (b) of Section
10 3.1-25-75, Section 5-2-2, or Section 5-2-11.

11 (b) A person is not eligible to take the oath of office for
12 a municipal office if that person is, at the time required for
13 taking the oath of office, in arrears in the payment of a tax
14 or other indebtedness due to the municipality or has been
15 convicted in any court located in the United States of any
16 infamous crime, bribery, perjury, or other felony unless: (1)
17 that person's right to hold elective office has been restored
18 by the terms of a pardon for the offense, or by executive or
19 judicial action; (2) that person has completed the sentence
20 ordered by the court for the offense at least 15 years prior to
21 taking office, has not had another felony criminal conviction
22 in the 15 years following the completion of the sentence, and
23 has submitted to the appropriate election authority a signed
24 and sworn affidavit which includes the date of all criminal

1 convictions, the date of completion of any sentences, and an
2 assertion that the person believes he or she qualifies under
3 this exemption; or (3) is otherwise eligible according to law.

4 The person seeking office under exemption (2) of this
5 subsection (b) must submit, with his or her nomination papers,
6 a signed affidavit asserting that exemption. No candidate
7 required to file the affidavit under this Section shall qualify
8 as a candidate for election or nomination unless he or she
9 files the affidavit asserting an exemption with the appropriate
10 officer by the end of the relevant period for the filing of
11 nomination papers. The filing of a false affidavit of exemption
12 shall disqualify a candidate, in addition to other penalties
13 provided by law. Objections to the affidavit asserting an
14 exemption shall be governed by Sections 10-8 through 10-10.1 of
15 the Election Code with the same procedure as objections to
16 certificates of nomination and nomination papers, hearings on
17 objections, and judicial review. If required, failure to file
18 an affidavit asserting an exemption under this Section with
19 nomination papers or failure to otherwise file the affidavit
20 within 30 days after the effective date of this amendatory Act
21 of the 101st General Assembly, whichever is later, or filing a
22 false affidavit asserting an exemption, shall constitute
23 grounds for immediate removal from office by the appropriate
24 authority as provided by law. Exemption (2) of this subsection
25 (b) shall not apply to a person who is a child sex offender as
26 defined in Section 11-9.3 of the Criminal Code of 2012.

1 (b-5) (Blank).

2 (c) A person is not eligible for the office of alderman of
3 a ward unless that person has resided in the ward that the
4 person seeks to represent, and a person is not eligible for the
5 office of trustee of a district unless that person has resided
6 in the municipality, at least one year next preceding the
7 election or appointment, except as provided in Section
8 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2,
9 or Section 5-2-11.

10 (d) If a person (i) is a resident of a municipality
11 immediately prior to the active duty military service of that
12 person or that person's spouse, (ii) resides anywhere outside
13 of the municipality during that active duty military service,
14 and (iii) immediately upon completion of that active duty
15 military service is again a resident of the municipality, then
16 the time during which the person resides outside the
17 municipality during the active duty military service is deemed
18 to be time during which the person is a resident of the
19 municipality for purposes of determining the residency
20 requirement under subsection (a).

21 (Source: P.A. 98-115, eff. 7-29-13; 99-449, eff. 8-24-15.)

22 Section 20. The School Code is amended by changing Section
23 10-11 as follows:

24 (105 ILCS 5/10-11) (from Ch. 122, par. 10-11)

1 Sec. 10-11. Vacancies. Elective offices become vacant
2 within the meaning of the Act, unless the context indicates
3 otherwise, on the happening of any of the following events,
4 before the expiration of the term of such office:

5 1. The death of the incumbent.

6 2. His or her resignation in writing filed with the
7 Secretary or Clerk of the Board.

8 3. His or her becoming a person under legal disability.

9 4. His or her ceasing to be an inhabitant of the
10 district for which he or she was elected.

11 5. His or her conviction of an infamous crime, of any
12 offense involving a violation of official oath, or of a
13 violent crime against a child.

14 6. His or her removal from office.

15 7. The decision of a competent tribunal declaring his
16 or her election void.

17 8. His ceasing to be an inhabitant of a particular area
18 from which he was elected, if the residential requirements
19 contained in Section 10-10.5, 11E-35, or 12-2 of this Code
20 are violated.

21 No elective office except as herein otherwise provided
22 becomes vacant until the successor of the incumbent of such
23 office has been appointed or elected, as the case may be, and
24 qualified. The successor shall have the same type of
25 residential qualifications as his or her predecessor and, if
26 the residential requirements contained in Section 10-10.5,

1 11E-35, or 12-2 of this Code apply, the successor, whether
2 elected or appointed by the remaining members or a regional
3 superintendent, shall be an inhabitant of the particular area
4 from which his or her predecessor was elected.

5 For the purpose of this Section, an elective office does
6 not become vacant if the person previously convicted of an
7 infamous crime: (i) received a pardon for the offense; (ii) has
8 completed the sentence ordered by the court for the offense at
9 least 15 years prior to taking office, has not had another
10 felony criminal conviction in the 15 years following the
11 completion of the sentence, and has submitted to the secretary
12 of the school board prior to taking office or within 30 days of
13 the effective date of this amendatory Act of the 101st General
14 Assembly, whichever is later, a signed affidavit which includes
15 the date of all criminal convictions, the date of completion of
16 any sentences, and an assertion that the person believes he or
17 she qualifies under this exemption; or (iii) is otherwise
18 eligible according to law. An affidavit submitted under item
19 (ii) of this paragraph shall be submitted to the appropriate
20 State's Attorney upon request. However, this paragraph shall
21 not apply to a person who is a child sex offender as defined in
22 Section 11-9.3 of the Criminal Code of 2012.

23 (Source: P.A. 94-1019, eff. 7-10-06.)

24 Section 25. The Unified Code of Corrections is amended by
25 changing Section 5-5-5 as follows:

1 (730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

2 Sec. 5-5-5. Loss and restoration of rights.

3 (a) Conviction and disposition shall not entail the loss by
4 the defendant of any civil rights, except under this Section
5 and Sections 29-6, ~~and~~ 29-10, and 29-15 of The Election Code,
6 as now or hereafter amended.

7 (b) A person convicted of a felony shall be ineligible to
8 hold an office created by the Constitution of this State until
9 the completion of his sentence.

10 (c) A person sentenced to imprisonment shall lose his right
11 to vote until released from imprisonment.

12 (d) On completion of sentence of imprisonment or upon
13 discharge from probation, conditional discharge or periodic
14 imprisonment, or at any time thereafter, all license rights and
15 privileges granted under the authority of this State which have
16 been revoked or suspended because of conviction of an offense
17 shall be restored unless the authority having jurisdiction of
18 such license rights finds after investigation and hearing that
19 restoration is not in the public interest. This paragraph (d)
20 shall not apply to the suspension or revocation of a license to
21 operate a motor vehicle under the Illinois Vehicle Code.

22 (e) Upon a person's discharge from incarceration or parole,
23 or upon a person's discharge from probation or at any time
24 thereafter, the committing court may enter an order certifying
25 that the sentence has been satisfactorily completed when the

1 court believes it would assist in the rehabilitation of the
2 person and be consistent with the public welfare. Such order
3 may be entered upon the motion of the defendant or the State or
4 upon the court's own motion.

5 (f) Upon entry of the order, the court shall issue to the
6 person in whose favor the order has been entered a certificate
7 stating that his behavior after conviction has warranted the
8 issuance of the order.

9 (g) This Section shall not affect the right of a defendant
10 to collaterally attack his conviction or to rely on it in bar
11 of subsequent proceedings for the same offense.

12 (h) No application for any license specified in subsection
13 (i) of this Section granted under the authority of this State
14 shall be denied by reason of an eligible offender who has
15 obtained a certificate of relief from disabilities, as defined
16 in Article 5.5 of this Chapter, having been previously
17 convicted of one or more criminal offenses, or by reason of a
18 finding of lack of "good moral character" when the finding is
19 based upon the fact that the applicant has previously been
20 convicted of one or more criminal offenses, unless:

21 (1) there is a direct relationship between one or more
22 of the previous criminal offenses and the specific license
23 sought; or

24 (2) the issuance of the license would involve an
25 unreasonable risk to property or to the safety or welfare
26 of specific individuals or the general public.

1 In making such a determination, the licensing agency shall
2 consider the following factors:

3 (1) the public policy of this State, as expressed in
4 Article 5.5 of this Chapter, to encourage the licensure and
5 employment of persons previously convicted of one or more
6 criminal offenses;

7 (2) the specific duties and responsibilities
8 necessarily related to the license being sought;

9 (3) the bearing, if any, the criminal offenses or
10 offenses for which the person was previously convicted will
11 have on his or her fitness or ability to perform one or
12 more such duties and responsibilities;

13 (4) the time which has elapsed since the occurrence of
14 the criminal offense or offenses;

15 (5) the age of the person at the time of occurrence of
16 the criminal offense or offenses;

17 (6) the seriousness of the offense or offenses;

18 (7) any information produced by the person or produced
19 on his or her behalf in regard to his or her rehabilitation
20 and good conduct, including a certificate of relief from
21 disabilities issued to the applicant, which certificate
22 shall create a presumption of rehabilitation in regard to
23 the offense or offenses specified in the certificate; and

24 (8) the legitimate interest of the licensing agency in
25 protecting property, and the safety and welfare of specific
26 individuals or the general public.

1 (i) A certificate of relief from disabilities shall be
2 issued only for a license or certification issued under the
3 following Acts:

4 (1) the Animal Welfare Act; except that a certificate
5 of relief from disabilities may not be granted to provide
6 for the issuance or restoration of a license under the
7 Animal Welfare Act for any person convicted of violating
8 Section 3, 3.01, 3.02, 3.03, 3.03-1, or 4.01 of the Humane
9 Care for Animals Act or Section 26-5 or 48-1 of the
10 Criminal Code of 1961 or the Criminal Code of 2012;

11 (2) the Illinois Athletic Trainers Practice Act;

12 (3) the Barber, Cosmetology, Esthetics, Hair Braiding,
13 and Nail Technology Act of 1985;

14 (4) the Boiler and Pressure Vessel Repairer Regulation
15 Act;

16 (5) the Boxing and Full-contact Martial Arts Act;

17 (6) the Illinois Certified Shorthand Reporters Act of
18 1984;

19 (7) the Illinois Farm Labor Contractor Certification
20 Act;

21 (8) the Registered Interior Designers Act;

22 (9) the Illinois Professional Land Surveyor Act of
23 1989;

24 (10) the Illinois Landscape Architecture Act of 1989;

25 (11) the Marriage and Family Therapy Licensing Act;

26 (12) the Private Employment Agency Act;

1 (13) the Professional Counselor and Clinical
2 Professional Counselor Licensing and Practice Act;

3 (14) the Real Estate License Act of 2000;

4 (15) the Illinois Roofing Industry Licensing Act;

5 (16) the Professional Engineering Practice Act of
6 1989;

7 (17) the Water Well and Pump Installation Contractor's
8 License Act;

9 (18) the Electrologist Licensing Act;

10 (19) the Auction License Act;

11 (20) the Illinois Architecture Practice Act of 1989;

12 (21) the Dietitian Nutritionist Practice Act;

13 (22) the Environmental Health Practitioner Licensing
14 Act;

15 (23) the Funeral Directors and Embalmers Licensing
16 Code;

17 (24) (blank);

18 (25) the Professional Geologist Licensing Act;

19 (26) the Illinois Public Accounting Act; and

20 (27) the Structural Engineering Practice Act of 1989.

21 (Source: P.A. 100-534, eff. 9-22-17; 100-920, eff. 8-17-18.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.