



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5046

Introduced 1/27/2022, by Rep. Curtis J. Tarver, II

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/3.1-10-5  
730 ILCS 5/5-5-5

from Ch. 24, par. 3.1-10-5  
from Ch. 38, par. 1005-5-5

Amends the Illinois Municipal Code. Repeals a provisions providing that a person is not eligible to take the oath of office for a municipal office if that person has been convicted of certain crimes. Amends the Unified Code of Corrections. Provides that a person convicted of a felony while he or she was serving as a public official is ineligible to hold public office at any time after his or her conviction.

LRB102 25677 HLH 34970 b

1 AN ACT concerning criminal convictions.

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

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

6 (65 ILCS 5/3.1-10-5) (from Ch. 24, par. 3.1-10-5)

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

8 (a) A person is not eligible for an elective municipal  
9 office unless that person is a qualified elector of the  
10 municipality and has resided in the municipality at least one  
11 year next preceding the election or appointment, except as  
12 provided in Section 3.1-20-25, subsection (b) of Section  
13 3.1-25-75, Section 5-2-2, or Section 5-2-11.

14 (b) A person is not eligible to take the oath of office for  
15 a municipal office if that person is, at the time required for  
16 taking the oath of office, in arrears in the payment of a tax  
17 or other indebtedness due to the municipality ~~or has been~~  
18 ~~convicted in any court located in the United States of any~~  
19 ~~infamous crime, bribery, perjury, or other felony, unless such~~  
20 ~~person is again restored to his or her rights of citizenship~~  
21 ~~that may have been forfeited under Illinois law as a result of~~  
22 ~~a conviction, which includes eligibility to hold elected~~  
23 ~~municipal office, by the terms of a pardon for the offense, has~~

1 ~~received a restoration of rights by the Governor, or otherwise~~  
2 ~~according to law. Any time after a judgment of conviction is~~  
3 ~~rendered, a person convicted of an infamous crime, bribery,~~  
4 ~~perjury, or other felony may petition the Governor for a~~  
5 ~~restoration of rights.~~

6 The changes made to this subsection by this amendatory Act  
7 of the 102nd General Assembly are declarative of existing law  
8 and apply to all persons elected at the April 4, 2017  
9 consolidated election and to persons elected or appointed  
10 thereafter.

11 (b-5) (Blank).

12 (c) A person is not eligible for the office of alderperson  
13 of a ward unless that person has resided in the ward that the  
14 person seeks to represent, and a person is not eligible for the  
15 office of trustee of a district unless that person has resided  
16 in the municipality, at least one year next preceding the  
17 election or appointment, except as provided in Section  
18 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2,  
19 or Section 5-2-11.

20 (d) If a person (i) is a resident of a municipality  
21 immediately prior to the active duty military service of that  
22 person or that person's spouse, (ii) resides anywhere outside  
23 of the municipality during that active duty military service,  
24 and (iii) immediately upon completion of that active duty  
25 military service is again a resident of the municipality, then  
26 the time during which the person resides outside the

1 municipality during the active duty military service is deemed  
2 to be time during which the person is a resident of the  
3 municipality for purposes of determining the residency  
4 requirement under subsection (a).

5 (Source: P.A. 102-15, eff. 6-17-21.)

6 Section 10. The Unified Code of Corrections is amended by  
7 changing Section 5-5-5 as follows:

8 (730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

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

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

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

17 (b-5) Notwithstanding any other provision of law, a  
18 person convicted of a felony for an offense committed on or  
19 after the effective date of this amendatory Act of the 102nd  
20 General Assembly and while he or she was serving as a public  
21 official in this State is ineligible to hold any local public  
22 office in this State or any office created by the Constitution  
23 of this State at any time after his or her conviction, unless  
24 that person is again restored to his or her rights of

1 citizenship that may have been forfeited under Illinois law as  
2 a result of a conviction, which includes eligibility to hold  
3 office, by the terms of a pardon for the offense, has received  
4 a restoration of rights by the Governor, or otherwise  
5 according to law.

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

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

19 (e) Upon a person's discharge from incarceration or  
20 parole, or upon a person's discharge from probation or at any  
21 time thereafter, the committing court may enter an order  
22 certifying that the sentence has been satisfactorily completed  
23 when the court believes it would assist in the rehabilitation  
24 of the person and be consistent with the public welfare. Such  
25 order may be entered upon the motion of the defendant or the  
26 State or upon the court's own motion.

1 (f) Upon entry of the order, the court shall issue to the  
2 person in whose favor the order has been entered a certificate  
3 stating that his behavior after conviction has warranted the  
4 issuance of the order.

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

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

17 (1) there is a direct relationship between one or more  
18 of the previous criminal offenses and the specific license  
19 sought; or

20 (2) the issuance of the license would involve an  
21 unreasonable risk to property or to the safety or welfare  
22 of specific individuals or the general public.

23 In making such a determination, the licensing agency shall  
24 consider the following factors:

25 (1) the public policy of this State, as expressed in  
26 Article 5.5 of this Chapter, to encourage the licensure

1 and employment of persons previously convicted of one or  
2 more criminal offenses;

3 (2) the specific duties and responsibilities  
4 necessarily related to the license being sought;

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

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

11 (5) the age of the person at the time of occurrence of  
12 the criminal offense or offenses;

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

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

20 (8) the legitimate interest of the licensing agency in  
21 protecting property, and the safety and welfare of  
22 specific individuals or the general public.

23 (i) A certificate of relief from disabilities shall be  
24 issued only for a license or certification issued under the  
25 following Acts:

26 (1) the Animal Welfare Act; except that a certificate

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

7 (2) the Illinois Athletic Trainers Practice Act;

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

10 (4) the Boiler and Pressure Vessel Repairer Regulation  
11 Act;

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

13 (6) the Illinois Certified Shorthand Reporters Act of  
14 1984;

15 (7) the Illinois Farm Labor Contractor Certification  
16 Act;

17 (8) the Registered Interior Designers Act;

18 (9) the Illinois Professional Land Surveyor Act of  
19 1989;

20 (10) the Landscape Architecture Registration Act;

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

22 (12) the Private Employment Agency Act;

23 (13) the Professional Counselor and Clinical  
24 Professional Counselor Licensing and Practice Act;

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

26 (15) the Illinois Roofing Industry Licensing Act;



1           (16) the Professional Engineering Practice Act of  
2           1989;

3           (17) the Water Well and Pump Installation Contractor's  
4           License Act;

5           (18) the Electrologist Licensing Act;

6           (19) the Auction License Act;

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

8           (21) the Dietitian Nutritionist Practice Act;

9           (22) the Environmental Health Practitioner Licensing  
10          Act;

11          (23) the Funeral Directors and Embalmers Licensing  
12          Code;

13          (24) (blank);

14          (25) the Professional Geologist Licensing Act;

15          (26) the Illinois Public Accounting Act; and

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

17          (Source: P.A. 102-284, eff. 8-6-21.)