



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1402

by Rep. Bill Mitchell

SYNOPSIS AS INTRODUCED:

10 ILCS 5/7-12

from Ch. 46, par. 7-12

305 ILCS 5/4-1.13 new

305 ILCS 5/5-1.5 new

Amends the Election Code and the Illinois Public Aid Code. Requires substance abuse testing as a condition for filing nomination papers for the office of State Representative or State Senator. Requires the Department of Human Services and the Department of Healthcare and Family Services to implement random substance abuse testing programs for applicants for assistance under the Temporary Assistance for Needy Families (TANF) program and for medical assistance, respectively. Under the Illinois Public Aid Code, provides that an individual who tests positive must agree to and complete a substance abuse treatment plan within 60 days after being notified of the positive retest by the Department of Human Services or the Department of Healthcare and Family Services. Provides that if an individual fails to complete a substance abuse treatment plan or tests positive for substance abuse following completion of a substance abuse treatment plan, the individual is barred from eligibility for assistance for a period of one year following the date of the individual's application for assistance. Provides that an individual's ineligibility for assistance does not affect the eligibility of any other member of the individual's family who is included in the application for assistance. Provides that nursing home residents are exempt from the substance abuse testing requirement. Effective January 1, 2012.

LRB097 06849 KTG 46942 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning substance abuse.

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 Section
5 7-12 as follows:

6 (10 ILCS 5/7-12) (from Ch. 46, par. 7-12)

7 Sec. 7-12. All petitions for nomination shall be filed by
8 mail or in person as follows:

9 (1) Where the nomination is to be made for a State,
10 congressional, or judicial office, or for any office a
11 nomination for which is made for a territorial division or
12 district which comprises more than one county or is partly
13 in one county and partly in another county or counties,
14 then, except as otherwise provided in this Section, such
15 petition for nomination shall be filed in the principal
16 office of the State Board of Elections not more than 113
17 and not less than 106 days prior to the date of the
18 primary, but, in the case of petitions for nomination to
19 fill a vacancy by special election in the office of
20 representative in Congress from this State, such petition
21 for nomination shall be filed in the principal office of
22 the State Board of Elections not more than 57 days and not
23 less than 50 days prior to the date of the primary.

1 Where a vacancy occurs in the office of Supreme,
2 Appellate or Circuit Court Judge within the 3-week period
3 preceding the 106th day before a general primary election,
4 petitions for nomination for the office in which the
5 vacancy has occurred shall be filed in the principal office
6 of the State Board of Elections not more than 92 nor less
7 than 85 days prior to the date of the general primary
8 election.

9 Where the nomination is to be made for delegates or
10 alternate delegates to a national nominating convention,
11 then such petition for nomination shall be filed in the
12 principal office of the State Board of Elections not more
13 than 113 and not less than 106 days prior to the date of
14 the primary; provided, however, that if the rules or
15 policies of a national political party conflict with such
16 requirements for filing petitions for nomination for
17 delegates or alternate delegates to a national nominating
18 convention, the chairman of the State central committee of
19 such national political party shall notify the Board in
20 writing, citing by reference the rules or policies of the
21 national political party in conflict, and in such case the
22 Board shall direct such petitions to be filed not more than
23 83 and not less than 76 days prior to the date of the
24 primary.

25 (2) Where the nomination is to be made for a county
26 office or trustee of a sanitary district then such petition

1 shall be filed in the office of the county clerk not more
2 than 113 nor less than 106 days prior to the date of the
3 primary.

4 (3) Where the nomination is to be made for a municipal
5 or township office, such petitions for nomination shall be
6 filed in the office of the local election official, not
7 more than 99 nor less than 92 days prior to the date of the
8 primary; provided, where a municipality's or township's
9 boundaries are coextensive with or are entirely within the
10 jurisdiction of a municipal board of election
11 commissioners, the petitions shall be filed in the office
12 of such board; and provided, that petitions for the office
13 of multi-township assessor shall be filed with the election
14 authority.

15 (4) The petitions of candidates for State central
16 committeeman shall be filed in the principal office of the
17 State Board of Elections not more than 113 nor less than
18 106 days prior to the date of the primary.

19 (5) Petitions of candidates for precinct, township or
20 ward committeemen shall be filed in the office of the
21 county clerk not more than 113 nor less than 106 days prior
22 to the date of the primary.

23 (6) The State Board of Elections and the various
24 election authorities and local election officials with
25 whom such petitions for nominations are filed shall specify
26 the place where filings shall be made and upon receipt

1 shall endorse thereon the day and hour on which each
2 petition was filed. All petitions filed by persons waiting
3 in line as of 8:00 a.m. on the first day for filing, or as
4 of the normal opening hour of the office involved on such
5 day, shall be deemed filed as of 8:00 a.m. or the normal
6 opening hour, as the case may be. Petitions filed by mail
7 and received after midnight of the first day for filing and
8 in the first mail delivery or pickup of that day shall be
9 deemed as filed as of 8:00 a.m. of that day or as of the
10 normal opening hour of such day, as the case may be. All
11 petitions received thereafter shall be deemed as filed in
12 the order of actual receipt. Where 2 or more petitions are
13 received simultaneously, the State Board of Elections or
14 the various election authorities or local election
15 officials with whom such petitions are filed shall break
16 ties and determine the order of filing, by means of a
17 lottery or other fair and impartial method of random
18 selection approved by the State Board of Elections. Such
19 lottery shall be conducted within 9 days following the last
20 day for petition filing and shall be open to the public.
21 Seven days written notice of the time and place of
22 conducting such random selection shall be given by the
23 State Board of Elections to the chairman of the State
24 central committee of each established political party, and
25 by each election authority or local election official, to
26 the County Chairman of each established political party,

1 and to each organization of citizens within the election
2 jurisdiction which was entitled, under this Article, at the
3 next preceding election, to have pollwatchers present on
4 the day of election. The State Board of Elections, election
5 authority or local election official shall post in a
6 conspicuous, open and public place, at the entrance of the
7 office, notice of the time and place of such lottery. The
8 State Board of Elections shall adopt rules and regulations
9 governing the procedures for the conduct of such lottery.
10 All candidates shall be certified in the order in which
11 their petitions have been filed. Where candidates have
12 filed simultaneously, they shall be certified in the order
13 determined by lot and prior to candidates who filed for the
14 same office at a later time.

15 (7) The State Board of Elections or the appropriate
16 election authority or local election official with whom
17 such a petition for nomination is filed shall notify the
18 person for whom a petition for nomination has been filed of
19 the obligation to file statements of organization, reports
20 of campaign contributions, and annual reports of campaign
21 contributions and expenditures under Article 9 of this Act.
22 Such notice shall be given in the manner prescribed by
23 paragraph (7) of Section 9-16 of this Code.

24 (8) Nomination papers filed under this Section are not
25 valid if the candidate named therein fails to file a
26 statement of economic interests as required by the Illinois

1 Governmental Ethics Act in relation to his candidacy with
2 the appropriate officer by the end of the period for the
3 filing of nomination papers unless he has filed a statement
4 of economic interests in relation to the same governmental
5 unit with that officer within a year preceding the date on
6 which such nomination papers were filed. If the nomination
7 papers of any candidate and the statement of economic
8 interest of that candidate are not required to be filed
9 with the same officer, the candidate must file with the
10 officer with whom the nomination papers are filed a receipt
11 from the officer with whom the statement of economic
12 interests is filed showing the date on which such statement
13 was filed. Such receipt shall be so filed not later than
14 the last day on which nomination papers may be filed.

15 (8.5) Nomination papers for the office of State
16 Representative or State Senator filed under this Section
17 are not valid unless the candidate named therein files
18 together with the nomination papers a copy of the results
19 of a substance abuse test conducted on a sample obtained
20 from the candidate within 60 days before the nomination
21 papers are filed. An individual is not eligible to file
22 nomination papers for the office of State Representative or
23 State Senator if the substance abuse test results show that
24 the candidate tested positive for substance abuse. An
25 individual shall not be considered to have tested positive
26 for substance abuse in the case of an initial positive test

1 result unless the sample used in the original test is
2 retested to rule out a false positive and results in a
3 second positive.

4 If a delay in the testing process may delay the
5 reporting of the test results, an individual may file his
6 or her nomination papers pending receipt of the test
7 results. If the test results are positive as provided in
8 this subdivision (8.5), the individual's name shall not be
9 placed on the ballot.

10 Nothing in this subdivision (8.5) shall be deemed to
11 prohibit an individual from filing nomination papers for
12 the office of State Representative or State Senator in a
13 subsequent election if the candidate named therein files
14 together with those nomination papers a copy of the results
15 of a substance abuse test showing a negative test result.

16 The State Board of Elections shall contract with a
17 third party to conduct the substance abuse testing required
18 under this subdivision (8.5). The test results shall be
19 sent to the individual from whom the sample was obtained.

20 The Department of Human Services shall adopt rules
21 specifying the substances that must be tested for to
22 satisfy the requirements of this subdivision (8.5). The
23 substances tested for under this subdivision (8.5) shall be
24 the same as those tested for under Section 4-1.13 of the
25 Illinois Public Aid Code.

26 Notwithstanding any other provision of this

1 subdivision (8.5), an individual is not barred from filing
2 nomination papers or appearing on a ballot if substance
3 abuse test results are positive for any substance that the
4 individual is authorized to use.

5 (9) Any person for whom a petition for nomination, or
6 for committeeman or for delegate or alternate delegate to a
7 national nominating convention has been filed may cause his
8 name to be withdrawn by request in writing, signed by him
9 and duly acknowledged before an officer qualified to take
10 acknowledgments of deeds, and filed in the principal or
11 permanent branch office of the State Board of Elections or
12 with the appropriate election authority or local election
13 official, not later than the date of certification of
14 candidates for the consolidated primary or general primary
15 ballot. No names so withdrawn shall be certified or printed
16 on the primary ballot. If petitions for nomination have
17 been filed for the same person with respect to more than
18 one political party, his name shall not be certified nor
19 printed on the primary ballot of any party. If petitions
20 for nomination have been filed for the same person for 2 or
21 more offices which are incompatible so that the same person
22 could not serve in more than one of such offices if
23 elected, that person must withdraw as a candidate for all
24 but one of such offices within the 5 business days
25 following the last day for petition filing. If he fails to
26 withdraw as a candidate for all but one of such offices

1 within such time his name shall not be certified, nor
2 printed on the primary ballot, for any office. For the
3 purpose of the foregoing provisions, an office in a
4 political party is not incompatible with any other office.

5 (10)(a) Notwithstanding the provisions of any other
6 statute, no primary shall be held for an established
7 political party in any township, municipality, or ward
8 thereof, where the nomination of such party for every
9 office to be voted upon by the electors of such township,
10 municipality, or ward thereof, is uncontested. Whenever a
11 political party's nomination of candidates is uncontested
12 as to one or more, but not all, of the offices to be voted
13 upon by the electors of a township, municipality, or ward
14 thereof, then a primary shall be held for that party in
15 such township, municipality, or ward thereof; provided
16 that the primary ballot shall not include those offices
17 within such township, municipality, or ward thereof, for
18 which the nomination is uncontested. For purposes of this
19 Article, the nomination of an established political party
20 of a candidate for election to an office shall be deemed to
21 be uncontested where not more than the number of persons to
22 be nominated have timely filed valid nomination papers
23 seeking the nomination of such party for election to such
24 office.

25 (b) Notwithstanding the provisions of any other
26 statute, no primary election shall be held for an

1 established political party for any special primary
2 election called for the purpose of filling a vacancy in the
3 office of representative in the United States Congress
4 where the nomination of such political party for said
5 office is uncontested. For the purposes of this Article,
6 the nomination of an established political party of a
7 candidate for election to said office shall be deemed to be
8 uncontested where not more than the number of persons to be
9 nominated have timely filed valid nomination papers
10 seeking the nomination of such established party for
11 election to said office. This subsection (b) shall not
12 apply if such primary election is conducted on a regularly
13 scheduled election day.

14 (c) Notwithstanding the provisions in subparagraph (a)
15 and (b) of this paragraph (10), whenever a person who has
16 not timely filed valid nomination papers and who intends to
17 become a write-in candidate for a political party's
18 nomination for any office for which the nomination is
19 uncontested files a written statement or notice of that
20 intent with the State Board of Elections or the local
21 election official with whom nomination papers for such
22 office are filed, a primary ballot shall be prepared and a
23 primary shall be held for that office. Such statement or
24 notice shall be filed on or before the date established in
25 this Article for certifying candidates for the primary
26 ballot. Such statement or notice shall contain (i) the name

1 and address of the person intending to become a write-in
2 candidate, (ii) a statement that the person is a qualified
3 primary elector of the political party from whom the
4 nomination is sought, (iii) a statement that the person
5 intends to become a write-in candidate for the party's
6 nomination, and (iv) the office the person is seeking as a
7 write-in candidate. An election authority shall have no
8 duty to conduct a primary and prepare a primary ballot for
9 any office for which the nomination is uncontested unless a
10 statement or notice meeting the requirements of this
11 Section is filed in a timely manner.

12 (11) If multiple sets of nomination papers are filed
13 for a candidate to the same office, the State Board of
14 Elections, appropriate election authority or local
15 election official where the petitions are filed shall
16 within 2 business days notify the candidate of his or her
17 multiple petition filings and that the candidate has 3
18 business days after receipt of the notice to notify the
19 State Board of Elections, appropriate election authority
20 or local election official that he or she may cancel prior
21 sets of petitions. If the candidate notifies the State
22 Board of Elections, appropriate election authority or
23 local election official, the last set of petitions filed
24 shall be the only petitions to be considered valid by the
25 State Board of Elections, election authority or local
26 election official. If the candidate fails to notify the

1 State Board of Elections, election authority or local
2 election official then only the first set of petitions
3 filed shall be valid and all subsequent petitions shall be
4 void.

5 (12) All nominating petitions shall be available for
6 public inspection and shall be preserved for a period of
7 not less than 6 months.

8 (Source: P.A. 96-1008, eff. 7-6-10.)

9 Section 10. The Illinois Public Aid Code is amended by
10 adding Sections 4-1.13 and 5-1.5 as follows:

11 (305 ILCS 5/4-1.13 new)

12 Sec. 4-1.13. Substance abuse testing.

13 (a) The Department of Human Services shall implement a
14 random substance abuse testing program for applicants for
15 assistance under the Temporary Assistance For Needy Families
16 (TANF) program under this Article IV. The Department shall
17 adopt rules specifying the substances that must be tested for
18 under this Section.

19 (b) An individual shall not be considered to have tested
20 positive for substance abuse until the sample has been retested
21 to rule out a false positive using the same sample obtained in
22 the original test. An individual who tests positive on the
23 retest must agree to and complete a substance abuse treatment
24 plan within 60 days after being notified of the positive retest

1 by the Department. If an individual completes a substance abuse
2 treatment plan under this subsection, he or she must again be
3 tested for substance abuse after completion of the treatment
4 plan.

5 (c) If an individual fails to complete a substance abuse
6 treatment plan as required under subsection (b) or tests
7 positive for substance abuse following completion of a
8 substance abuse treatment plan, the individual is barred from
9 eligibility for assistance under this Article for a period of
10 one year following the date of the individual's application for
11 assistance. An individual's ineligibility for assistance under
12 this subsection does not affect the eligibility of any other
13 member of the individual's family who is included in the
14 application for assistance under this Article.

15 (d) Residents of facilities licensed under the Nursing Home
16 Care Act are exempt from the requirements of this Section.

17 (305 ILCS 5/5-1.5 new)

18 Sec. 5-1.5. Substance abuse testing.

19 (a) The Department of Healthcare and Family Services shall
20 implement a random substance abuse testing program for
21 applicants for medical assistance under this Article V. The
22 Department shall adopt rules specifying the substances that
23 must be tested for under this Section. The substances tested
24 for under this Section shall be the same as those tested for
25 under Section 4-1.13 of this Code.

1 (b) An individual shall not be considered to have tested
2 positive for substance abuse until the sample has been retested
3 to rule out a false positive using the same sample obtained in
4 the original test. An individual who tests positive on the
5 retest must agree to and complete a substance abuse treatment
6 plan within 60 days after being notified of the positive retest
7 by the Department. If an individual completes a substance abuse
8 treatment plan under this subsection, he or she must again be
9 tested for substance abuse after completion of the treatment
10 plan.

11 (c) If an individual fails to complete a substance abuse
12 treatment plan as required under subsection (b) or tests
13 positive for substance abuse following completion of a
14 substance abuse treatment plan, the individual is barred from
15 eligibility for assistance under this Article for a period of
16 one year following the date of the individual's application for
17 assistance. An individual's ineligibility for assistance under
18 this subsection does not affect the eligibility of any other
19 member of the individual's family who is included in the
20 application for assistance under this Article.

21 (d) Residents of facilities licensed under the Nursing Home
22 Care Act are exempt from the requirements of this Section.

23 Section 99. Effective date. This Act takes effect January
24 1, 2012.