

# SB3434



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**SB3434**

Introduced 2/7/2012, by Sen. Thomas Johnson

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-5-5

from Ch. 38, par. 1005-5-5

Amends the Unified Code of Corrections. Makes a technical change in a Section concerning loss and restoration of rights of persons convicted of crimes.

LRB097 17711 RLC 62925 b

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

7 Sec. 5-5-5. Loss and Restoration of Rights.

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

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

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

17 (d) On completion of sentence of imprisonment or upon  
18 discharge from probation, conditional discharge or periodic  
19 imprisonment, or at any time thereafter, all license rights and  
20 privileges granted under the authority of this State which have  
21 been revoked or suspended because of conviction of an offense  
22 shall be restored unless the authority having jurisdiction of  
23 such license rights finds after investigation and hearing that

1 restoration is not in the public interest. This paragraph (d)  
2 shall not apply to the suspension or revocation of a license to  
3 operate a motor vehicle under the Illinois Vehicle Code.

4 (e) Upon a person's discharge from incarceration or parole,  
5 or upon a person's discharge from probation or at any time  
6 thereafter, the committing court may enter an order certifying  
7 that the sentence has been satisfactorily completed when the  
8 court believes it would assist in the rehabilitation of the  
9 person and be consistent with the public welfare. Such order  
10 may be entered upon the motion of the defendant or the State or  
11 upon the court's own motion.

12 (f) Upon entry of the order, the court shall issue to the  
13 person in whose favor the order has been entered a certificate  
14 stating that his behavior after conviction has warranted the  
15 issuance of the order.

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

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

1 convicted of one or more criminal offenses, unless:

2 (1) there is a direct relationship between one or more  
3 of the previous criminal offenses and the specific license  
4 sought; or

5 (2) the issuance of the license would involve an  
6 unreasonable risk to property or to the safety or welfare  
7 of specific individuals or the general public.

8 In making such a determination, the licensing agency shall  
9 consider the following factors:

10 (1) the public policy of this State, as expressed in  
11 Article 5.5 of this Chapter, to encourage the licensure and  
12 employment of persons previously convicted of one or more  
13 criminal offenses;

14 (2) the specific duties and responsibilities  
15 necessarily related to the license being sought;

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

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

22 (5) the age of the person at the time of occurrence of  
23 the criminal offense or offenses;

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

25 (7) any information produced by the person or produced  
26 on his or her behalf in regard to his or her rehabilitation

1 and good conduct, including a certificate of relief from  
2 disabilities issued to the applicant, which certificate  
3 shall create a presumption of rehabilitation in regard to  
4 the offense or offenses specified in the certificate; and

5 (8) the legitimate interest of the licensing agency in  
6 protecting property, and the safety and welfare of specific  
7 individuals or the general public.

8 (i) A certificate of relief from disabilities shall be  
9 issued only for a license or certification issued under the  
10 following Acts:

11 (1) the Animal Welfare Act; except that a certificate  
12 of relief from disabilities may not be granted to provide  
13 for the issuance or restoration of a license under the  
14 Animal Welfare Act for any person convicted of violating  
15 Section 3, 3.01, 3.02, 3.03, 3.03-1, or 4.01 of the Humane  
16 Care for Animals Act or Section 26-5 of the Criminal Code  
17 of 1961;

18 (2) the Illinois Athletic Trainers Practice Act;

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

21 (4) the Boiler and Pressure Vessel Repairer Regulation  
22 Act;

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

24 (6) the Illinois Certified Shorthand Reporters Act of  
25 1984;

26 (7) the Illinois Farm Labor Contractor Certification

1 Act;

2 (8) the Interior Design Title Act;

3 (9) the Illinois Professional Land Surveyor Act of  
4 1989;

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

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

7 (12) the Private Employment Agency Act;

8 (13) the Professional Counselor and Clinical  
9 Professional Counselor Licensing Act;

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

11 (15) the Illinois Roofing Industry Licensing Act;

12 (16) the Professional Engineering Practice Act of  
13 1989;

14 (17) the Water Well and Pump Installation Contractor's  
15 License Act;

16 (18) the Electrologist Licensing Act;

17 (19) the Auction License Act;

18 (20) Illinois Architecture Practice Act of 1989;

19 (21) the Dietetic and Nutrition Services Practice Act;

20 (22) the Environmental Health Practitioner Licensing  
21 Act;

22 (23) the Funeral Directors and Embalmers Licensing  
23 Code;

24 (24) the Land Sales Registration Act of 1999;

25 (25) the Professional Geologist Licensing Act;

26 (26) the Illinois Public Accounting Act; and

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

2 (Source: P.A. 96-1246, eff. 1-1-11; 97-119, eff. 7-14-11.)