



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4452

Introduced 5/11/2009, 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 5/5-1.3 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, 2010.

LRB096 12648 DRJ 26184 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 in
13 one county and partly in another county or counties, then,
14 except as otherwise provided in this Section, such petition for
15 nomination shall be filed in the principal office of the State
16 Board of Elections not more than 99 and not less than 92 days
17 prior to the date of the primary, but, in the case of petitions
18 for nomination to fill a vacancy by special election in the
19 office of representative in Congress from this State, such
20 petition for nomination shall be filed in the principal office
21 of the State Board of Elections not more than 57 days and not
22 less than 50 days prior to the date of the primary.

23 Where a vacancy occurs in the office of Supreme, Appellate

1 or Circuit Court Judge within the 3-week period preceding the
2 92nd day before a general primary election, petitions for
3 nomination for the office in which the vacancy has occurred
4 shall be filed in the principal office of the State Board of
5 Elections not more than 78 nor less than 71 days prior to the
6 date of the general primary election.

7 Where the nomination is to be made for delegates or
8 alternate delegates to a national nominating convention, then
9 such petition for nomination shall be filed in the principal
10 office of the State Board of Elections not more than 99 and not
11 less than 92 days prior to the date of the primary; provided,
12 however, that if the rules or policies of a national political
13 party conflict with such requirements for filing petitions for
14 nomination for delegates or alternate delegates to a national
15 nominating convention, the chairman of the State central
16 committee of such national political party shall notify the
17 Board in writing, citing by reference the rules or policies of
18 the national political party in conflict, and in such case the
19 Board shall direct such petitions to be filed not more than 69
20 and not less than 62 days prior to the date of the primary.

21 (2) Where the nomination is to be made for a county office
22 or trustee of a sanitary district then such petition shall be
23 filed in the office of the county clerk not more than 99 nor
24 less than 92 days prior to the date of the primary.

25 (3) Where the nomination is to be made for a municipal or
26 township office, such petitions for nomination shall be filed

1 in the office of the local election official, not more than 78
2 nor less than 71 days prior to the date of the primary;
3 provided, where a municipality's or township's boundaries are
4 coextensive with or are entirely within the jurisdiction of a
5 municipal board of election commissioners, the petitions shall
6 be filed in the office of such board; and provided, that
7 petitions for the office of multi-township assessor shall be
8 filed with the election authority.

9 (4) The petitions of candidates for State central
10 committeeman shall be filed in the principal office of the
11 State Board of Elections not more than 99 nor less than 92 days
12 prior to the date of the primary.

13 (5) Petitions of candidates for precinct, township or ward
14 committeemen shall be filed in the office of the county clerk
15 not more than 99 nor less than 92 days prior to the date of the
16 primary.

17 (6) The State Board of Elections and the various election
18 authorities and local election officials with whom such
19 petitions for nominations are filed shall specify the place
20 where filings shall be made and upon receipt shall endorse
21 thereon the day and hour on which each petition was filed. All
22 petitions filed by persons waiting in line as of 8:00 a.m. on
23 the first day for filing, or as of the normal opening hour of
24 the office involved on such day, shall be deemed filed as of
25 8:00 a.m. or the normal opening hour, as the case may be.
26 Petitions filed by mail and received after midnight of the

1 first day for filing and in the first mail delivery or pickup
2 of that day shall be deemed as filed as of 8:00 a.m. of that day
3 or as of the normal opening hour of such day, as the case may
4 be. All petitions received thereafter shall be deemed as filed
5 in the order of actual receipt. Where 2 or more petitions are
6 received simultaneously, the State Board of Elections or the
7 various election authorities or local election officials with
8 whom such petitions are filed shall break ties and determine
9 the order of filing, by means of a lottery or other fair and
10 impartial method of random selection approved by the State
11 Board of Elections. Such lottery shall be conducted within 9
12 days following the last day for petition filing and shall be
13 open to the public. Seven days written notice of the time and
14 place of conducting such random selection shall be given by the
15 State Board of Elections to the chairman of the State central
16 committee of each established political party, and by each
17 election authority or local election official, to the County
18 Chairman of each established political party, and to each
19 organization of citizens within the election jurisdiction
20 which was entitled, under this Article, at the next preceding
21 election, to have pollwatchers present on the day of election.
22 The State Board of Elections, election authority or local
23 election official shall post in a conspicuous, open and public
24 place, at the entrance of the office, notice of the time and
25 place of such lottery. The State Board of Elections shall adopt
26 rules and regulations governing the procedures for the conduct

1 of such lottery. All candidates shall be certified in the order
2 in which their petitions have been filed. Where candidates have
3 filed simultaneously, they shall be certified in the order
4 determined by lot and prior to candidates who filed for the
5 same office at a later time.

6 (7) The State Board of Elections or the appropriate
7 election authority or local election official with whom such a
8 petition for nomination is filed shall notify the person for
9 whom a petition for nomination has been filed of the obligation
10 to file statements of organization, reports of campaign
11 contributions, and annual reports of campaign contributions
12 and expenditures under Article 9 of this Act. Such notice shall
13 be given in the manner prescribed by paragraph (7) of Section
14 9-16 of this Code.

15 (8) Nomination papers filed under this Section are not
16 valid if the candidate named therein fails to file a statement
17 of economic interests as required by the Illinois Governmental
18 Ethics Act in relation to his candidacy with the appropriate
19 officer by the end of the period for the filing of nomination
20 papers unless he has filed a statement of economic interests in
21 relation to the same governmental unit with that officer within
22 a year preceding the date on which such nomination papers were
23 filed. If the nomination papers of any candidate and the
24 statement of economic interest of that candidate are not
25 required to be filed with the same officer, the candidate must
26 file with the officer with whom the nomination papers are filed

1 a receipt from the officer with whom the statement of economic
2 interests is filed showing the date on which such statement was
3 filed. Such receipt shall be so filed not later than the last
4 day on which nomination papers may be filed.

5 (8.5) Nomination papers for the office of State
6 Representative or State Senator filed under this Section are
7 not valid unless the candidate named therein files together
8 with the nomination papers a copy of the results of a substance
9 abuse test conducted on a sample obtained from the candidate
10 within 60 days before the nomination papers are filed. An
11 individual is not eligible to file nomination papers for the
12 office of State Representative or State Senator if the
13 substance abuse test results show that the candidate tested
14 positive for substance abuse. An individual shall not be
15 considered to have tested positive for substance abuse in the
16 case of an initial positive test result unless the sample used
17 in the original test is retested to rule out a false positive
18 and results in a second positive.

19 If a delay in the testing process may delay the reporting
20 of the test results, an individual may file his or her
21 nomination papers pending receipt of the test results. If the
22 test results are positive as provided in this subdivision
23 (8.5), the individual's name shall not be placed on the ballot.

24 Nothing in this subdivision (8.5) shall be deemed to
25 prohibit an individual from filing nomination papers for the
26 office of State Representative or State Senator in a subsequent

1 election if the candidate named therein files together with
2 those nomination papers a copy of the results of a substance
3 abuse test showing a negative test result.

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

8 The Department of Human Services shall adopt rules
9 specifying the substances that must be tested for to satisfy
10 the requirements of this subdivision (8.5). The substances
11 tested for under this subdivision (8.5) shall be the same as
12 those tested for under Section 4-1.13 of the Illinois Public
13 Aid Code.

14 Notwithstanding any other provision of this subdivision
15 (8.5), an individual is not barred from filing nomination
16 papers or appearing on a ballot if substance abuse test results
17 are positive for any substance that the individual is
18 authorized to use.

19 (9) Any person for whom a petition for nomination, or for
20 committeeman or for delegate or alternate delegate to a
21 national nominating convention has been filed may cause his
22 name to be withdrawn by request in writing, signed by him and
23 duly acknowledged before an officer qualified to take
24 acknowledgments of deeds, and filed in the principal or
25 permanent branch office of the State Board of Elections or with
26 the appropriate election authority or local election official,

1 not later than the date of certification of candidates for the
2 consolidated primary or general primary ballot. No names so
3 withdrawn shall be certified or printed on the primary ballot.
4 If petitions for nomination have been filed for the same person
5 with respect to more than one political party, his name shall
6 not be certified nor printed on the primary ballot of any
7 party. If petitions for nomination have been filed for the same
8 person for 2 or more offices which are incompatible so that the
9 same person could not serve in more than one of such offices if
10 elected, that person must withdraw as a candidate for all but
11 one of such offices within the 5 business days following the
12 last day for petition filing. If he fails to withdraw as a
13 candidate for all but one of such offices within such time his
14 name shall not be certified, nor printed on the primary ballot,
15 for any office. For the purpose of the foregoing provisions, an
16 office in a political party is not incompatible with any other
17 office.

18 (10) (a) Notwithstanding the provisions of any other
19 statute, no primary shall be held for an established
20 political party in any township, municipality, or ward
21 thereof, where the nomination of such party for every
22 office to be voted upon by the electors of such township,
23 municipality, or ward thereof, is uncontested. Whenever a
24 political party's nomination of candidates is uncontested
25 as to one or more, but not all, of the offices to be voted
26 upon by the electors of a township, municipality, or ward

1 thereof, then a primary shall be held for that party in
2 such township, municipality, or ward thereof; provided
3 that the primary ballot shall not include those offices
4 within such township, municipality, or ward thereof, for
5 which the nomination is uncontested. For purposes of this
6 Article, the nomination of an established political party
7 of a candidate for election to an office shall be deemed to
8 be uncontested where not more than the number of persons to
9 be nominated have timely filed valid nomination papers
10 seeking the nomination of such party for election to such
11 office.

12 (b) Notwithstanding the provisions of any other
13 statute, no primary election shall be held for an
14 established political party for any special primary
15 election called for the purpose of filling a vacancy in the
16 office of representative in the United States Congress
17 where the nomination of such political party for said
18 office is uncontested. For the purposes of this Article,
19 the nomination of an established political party of a
20 candidate for election to said office shall be deemed to be
21 uncontested where not more than the number of persons to be
22 nominated have timely filed valid nomination papers
23 seeking the nomination of such established party for
24 election to said office. This subsection (b) shall not
25 apply if such primary election is conducted on a regularly
26 scheduled election day.

1 (c) Notwithstanding the provisions in subparagraph (a)
2 and (b) of this paragraph (10), whenever a person who has
3 not timely filed valid nomination papers and who intends to
4 become a write-in candidate for a political party's
5 nomination for any office for which the nomination is
6 uncontested files a written statement or notice of that
7 intent with the State Board of Elections or the local
8 election official with whom nomination papers for such
9 office are filed, a primary ballot shall be prepared and a
10 primary shall be held for that office. Such statement or
11 notice shall be filed on or before the date established in
12 this Article for certifying candidates for the primary
13 ballot. Such statement or notice shall contain (i) the name
14 and address of the person intending to become a write-in
15 candidate, (ii) a statement that the person is a qualified
16 primary elector of the political party from whom the
17 nomination is sought, (iii) a statement that the person
18 intends to become a write-in candidate for the party's
19 nomination, and (iv) the office the person is seeking as a
20 write-in candidate. An election authority shall have no
21 duty to conduct a primary and prepare a primary ballot for
22 any office for which the nomination is uncontested unless a
23 statement or notice meeting the requirements of this
24 Section is filed in a timely manner.

25 (11) If multiple sets of nomination papers are filed for a
26 candidate to the same office, the State Board of Elections,

1 appropriate election authority or local election official
2 where the petitions are filed shall within 2 business days
3 notify the candidate of his or her multiple petition filings
4 and that the candidate has 3 business days after receipt of the
5 notice to notify the State Board of Elections, appropriate
6 election authority or local election official that he or she
7 may cancel prior sets of petitions. If the candidate notifies
8 the State Board of Elections, appropriate election authority or
9 local election official, the last set of petitions filed shall
10 be the only petitions to be considered valid by the State Board
11 of Elections, election authority or local election official. If
12 the candidate fails to notify the State Board of Elections,
13 election authority or local election official then only the
14 first set of petitions filed shall be valid and all subsequent
15 petitions shall be void.

16 (12) All nominating petitions shall be available for public
17 inspection and shall be preserved for a period of not less than
18 6 months.

19 (Source: P.A. 86-867; 86-873; 86-875; 86-1028; 86-1089;
20 87-1052.)

21 Section 10. The Illinois Public Aid Code is amended by
22 adding Sections 4-1.13 and 5-1.3 as follows:

23 (305 ILCS 5/4-1.13 new)

24 Sec. 4-1.13. Substance abuse testing.

1 (a) The Department of Human Services shall implement a
2 random substance abuse testing program for applicants for
3 assistance under the Temporary Assistance For Needy Families
4 (TANF) program under this Article IV. The Department shall
5 adopt rules specifying the substances that must be tested for
6 under this Section.

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

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

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

3 (305 ILCS 5/5-1.3 new)

4 Sec. 5-1.3. Substance abuse testing.

5 (a) The Department of Healthcare and Family Services shall
6 implement a random substance abuse testing program for
7 applicants for medical assistance under this Article V. The
8 Department shall adopt rules specifying the substances that
9 must be tested for under this Section. The substances tested
10 for under this Section shall be the same as those tested for
11 under Section 4-1.13 of this Code.

12 (b) An individual shall not be considered to have tested
13 positive for substance abuse until the sample has been retested
14 to rule out a false positive using the same sample obtained in
15 the original test. An individual who tests positive on the
16 retest must agree to and complete a substance abuse treatment
17 plan within 60 days after being notified of the positive retest
18 by the Department. If an individual completes a substance abuse
19 treatment plan under this subsection, he or she must again be
20 tested for substance abuse after completion of the treatment
21 plan.

22 (c) If an individual fails to complete a substance abuse
23 treatment plan as required under subsection (b) or tests
24 positive for substance abuse following completion of a
25 substance abuse treatment plan, the individual is barred from

1 eligibility for assistance under this Article for a period of
2 one year following the date of the individual's application for
3 assistance. An individual's ineligibility for assistance under
4 this subsection does not affect the eligibility of any other
5 member of the individual's family who is included in the
6 application for assistance under this Article.

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

9 Section 99. Effective date. This Act takes effect January
10 1, 2010.