



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB0174

Introduced 1/18/2013, 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

Amends the Election Code. Requires substance abuse testing as a condition for filing nomination papers for the office of State Representative or State Senator. Amends the Illinois Public Aid Code. Provides that the Department of Human Services shall require a drug test to screen each individual who applies for Temporary Assistance for Needy Families (TANF). Provides that the cost of drug testing shall be the responsibility of the individual tested and that an individual who tests positive for controlled substances shall be ineligible to receive TANF benefits for one year after the date of the positive drug test, unless the individual meets certain requirements. Contains provisions concerning notice; persons required to comply with the drug testing requirements; persons exempted from the drug testing requirements; circumstances under which an applicant who fails a drug test has the right to take one or more additional tests; and other matters. Effective January 1, 2014.

LRB098 02913 KTG 32925 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 in accordance
23 with the delegate selection plan adopted by the state
24 central committee of such national political party.

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. However, 2 or more petitions
13 filed within the last hour of the filing deadline shall be
14 deemed filed simultaneously. Where 2 or more petitions are
15 received simultaneously, the State Board of Elections or
16 the various election authorities or local election
17 officials with whom such petitions are filed shall break
18 ties and determine the order of filing, by means of a
19 lottery or other fair and impartial method of random
20 selection approved by the State Board of Elections. Such
21 lottery shall be conducted within 9 days following the last
22 day for petition filing and shall be open to the public.
23 Seven days written notice of the time and place of
24 conducting such random selection shall be given by the
25 State Board of Elections to the chairman of the State
26 central committee of each established political party, and

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

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

26 (8) Nomination papers filed under this Section are not

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

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

1 individual shall not be considered to have tested positive
2 for substance abuse in the case of an initial positive test
3 result unless the sample used in the original test is
4 retested to rule out a false positive and results in a
5 second positive.

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

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

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

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

1 Illinois Public Aid Code.

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

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

1 following the last day for petition filing. A candidate in
2 a judicial election may file petitions for nomination for
3 only one vacancy in a subcircuit and only one vacancy in a
4 circuit in any one filing period, and if petitions for
5 nomination have been filed for the same person for 2 or
6 more vacancies in the same circuit or subcircuit in the
7 same filing period, his or her name shall be certified only
8 for the first vacancy for which the petitions for
9 nomination were filed. If he fails to withdraw as a
10 candidate for all but one of such offices within such time
11 his name shall not be certified, nor printed on the primary
12 ballot, for any office. For the purpose of the foregoing
13 provisions, an office in a political party is not
14 incompatible with any other office.

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

1 within such township, municipality, or ward thereof, for
2 which the nomination is uncontested. For purposes of this
3 Article, the nomination of an established political party
4 of a candidate for election to an office shall be deemed to
5 be uncontested where not more than the number of persons to
6 be nominated have timely filed valid nomination papers
7 seeking the nomination of such party for election to such
8 office.

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

24 (c) Notwithstanding the provisions in subparagraph (a)
25 and (b) of this paragraph (10), whenever a person who has
26 not timely filed valid nomination papers and who intends to

1 become a write-in candidate for a political party's
2 nomination for any office for which the nomination is
3 uncontested files a written statement or notice of that
4 intent with the State Board of Elections or the local
5 election official with whom nomination papers for such
6 office are filed, a primary ballot shall be prepared and a
7 primary shall be held for that office. Such statement or
8 notice shall be filed on or before the date established in
9 this Article for certifying candidates for the primary
10 ballot. Such statement or notice shall contain (i) the name
11 and address of the person intending to become a write-in
12 candidate, (ii) a statement that the person is a qualified
13 primary elector of the political party from whom the
14 nomination is sought, (iii) a statement that the person
15 intends to become a write-in candidate for the party's
16 nomination, and (iv) the office the person is seeking as a
17 write-in candidate. An election authority shall have no
18 duty to conduct a primary and prepare a primary ballot for
19 any office for which the nomination is uncontested unless a
20 statement or notice meeting the requirements of this
21 Section is filed in a timely manner.

22 (11) If multiple sets of nomination papers are filed
23 for a candidate to the same office, the State Board of
24 Elections, appropriate election authority or local
25 election official where the petitions are filed shall
26 within 2 business days notify the candidate of his or her

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

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

18 (Source: P.A. 96-1008, eff. 7-6-10; 97-81, eff. 7-5-11;
19 97-1044, eff. 1-1-13.)

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

22 (305 ILCS 5/4-1.13 new)

23 Sec. 4-1.13. Substance abuse testing.

24 (a) The Department of Human Services shall require a drug

1 test to screen each individual who applies for Temporary
2 Assistance for Needy Families (TANF). The cost of drug testing
3 shall be the responsibility of the individual tested.

4 (1) An individual subject to the requirements of this
5 Section includes any parent or caretaker relative who is
6 included in a cash assistance unit, including an individual
7 who may be exempt from work activity requirements due to
8 the age of the youngest child or who may be exempt from
9 work activity requirements as specified by the Department.

10 (2) An individual who tests positive for controlled
11 substances as a result of a drug test required pursuant to
12 this Section shall be ineligible to receive TANF benefits
13 for one year after the date of the positive drug test,
14 unless the individual meets the requirements of subsection
15 (c).

16 (b) The Department shall:

17 (1) provide notice of drug testing to each applicant at
18 the time of application. The notice shall advise the
19 applicant that drug testing will be conducted as a
20 condition for receiving TANF benefits and that the
21 applicant shall bear the cost of testing. The applicant
22 shall be advised that the required drug testing may be
23 avoided if the applicant does not apply for TANF benefits.
24 Dependent children under 18 years of age shall be exempt
25 from the drug-testing requirement;

26 (2) require that for 2-parent families, both parents

1 shall comply with the drug-testing requirement;

2 (3) require any minor parent who is not required to
3 live with a parent, legal guardian, or other adult
4 caretaker relative to comply with the drug-testing
5 requirement;

6 (4) advise each applicant to be tested, before the test
7 is conducted, that the applicant may, but shall not be
8 required to, advise the agent administering the test of any
9 prescription or over-the-counter medication the applicant
10 is taking;

11 (5) require each applicant to be tested to sign a
12 written acknowledgment that the applicant has received and
13 understands the notice and advice provided pursuant to
14 paragraphs (1) and (4) of this subsection;

15 (6) assure each applicant being tested a reasonable
16 degree of dignity while producing and submitting a sample
17 for drug testing, consistent with the need of the State to
18 ensure the reliability of the sample;

19 (7) specify circumstances under which an applicant who
20 fails a drug test has the right to take one or more
21 additional tests;

22 (8) inform an applicant who tests positive for a
23 controlled substance and is deemed ineligible for TANF
24 benefits that the applicant may reapply for those benefits
25 one year after the date of the positive drug test, unless
26 the applicant meets the requirements of subsection (c) of

1 this Section. If the applicant tests positive again, the
2 applicant shall be ineligible to receive TANF benefits for
3 3 years after the date of the 2nd positive drug test,
4 unless the applicant meets the requirements of subsection
5 (c) of this Section; and

6 (9) provide any applicant who tests positive with a
7 list of licensed substance abuse treatment providers
8 available in the area in which the applicant resides.
9 Neither the Department nor the State shall be responsible
10 for providing or paying for substance abuse treatment as
11 part of the screening conducted pursuant to this Section.

12 (c) An applicant who tests positive pursuant to this
13 Section and is denied TANF benefits as a result may reapply for
14 those benefits after 6 months if the applicant verifies the
15 successful completion of a substance abuse treatment program.
16 An applicant who has met the requirements of this subsection
17 and reapplies for TANF benefits shall be required to pass an
18 initial drug test and meet the requirements of this Section.
19 Any drug test conducted while the applicant is undergoing
20 substance abuse treatment shall meet the requirements of this
21 Section. The cost of any drug testing and substance abuse
22 treatment provided pursuant to this Section shall be the
23 responsibility of the individual being tested and receiving
24 treatment. An individual who fails the drug test required
25 pursuant to subsection (a) of this Section may reapply for
26 benefits one time.

1 (d) If a parent is deemed ineligible for TANF benefits as a
2 result of failing a drug test conducted pursuant to this
3 Section:

4 (1) the eligibility of the dependent child for TANF
5 benefits shall not be affected;

6 (2) an appropriate protective payee shall be
7 designated to receive benefits on behalf of the child; and

8 (3) the parent may choose to designate another
9 individual to receive benefits for the minor child of the
10 parent. The designated individual shall be an immediate
11 family member, or if an immediate family member is not
12 available or the family member declines the option, another
13 individual, approved by the Department, may be designated.
14 The designated individual shall undergo drug testing
15 before being approved to receive benefits on behalf of the
16 child. If the designated individual tests positive for
17 controlled substances, the individual shall be ineligible
18 to receive benefits on behalf of the child.

19 (e) The Department shall adopt rules to implement the
20 requirements of this Section.

21 Section 99. Effective date. This Act takes effect January
22 1, 2014.