



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

### HB2851

Introduced 2/19/2021, by Rep. Daniel Didech

#### SYNOPSIS AS INTRODUCED:

New Act

10 ILCS 5/21-1	from Ch. 46, par. 21-1
10 ILCS 5/21-2	from Ch. 46, par. 21-2
10 ILCS 5/21-3	from Ch. 46, par. 21-3
10 ILCS 5/21-4	from Ch. 46, par. 21-4
10 ILCS 5/21-5 rep.	

Creates the Uniform Faithful Presidential Electors Act. Concerning electors for the Electoral College, provides for an alternate elector to fill a vacant position (replacing the procedure currently in the Election Code), including if an elector has marked a ballot in violation of his or her pledge. Requires a political party to submit an elector nominee and an alternate elector nominee to the Secretary of State. Requires an elector nominee and an alternate elector nominee to pledge to vote for the President and Vice President nominees of the party that nominated the elector and alternate elector. Makes conforming changes in the Election Code. Effective immediately.

LRB102 00207 SMS 10209 b

1 AN ACT concerning elections.

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

4 Section 1. Short title. This Act may be cited as the  
5 Uniform Faithful Presidential Electors Act.

6 Section 5. Definitions. As used in this Act:

7 "Cast" means accepted by the Secretary of State in  
8 accordance with subsection (b) of Section 30.

9 "Elector" means an individual selected as a presidential  
10 elector under Article 21 of the Election Code and this Act.

11 "President" means the President of the United States.

12 "Unaffiliated presidential candidate" means a candidate  
13 for President who qualifies for the general election ballot in  
14 this State by means other than nomination by a political  
15 party.

16 "Vice President" means the Vice President of the United  
17 States.

18 Section 10. Designation of State's electors. For each  
19 elector position in this State, a political party contesting  
20 the position, or an unaffiliated presidential candidate, shall  
21 submit to the Secretary of State the names of 2 qualified  
22 individuals in accordance with Article 21 of the Election

1 Code. One of the individuals must be designated "elector  
2 nominee" and the other "alternate elector nominee". Except as  
3 otherwise provided in Sections 20 through 35 of this Act, this  
4 State's electors are the winning elector nominees under the  
5 laws of this State.

6 Section 15. Pledge. Each elector nominee and alternate  
7 elector nominee of a political party shall execute the  
8 following pledge: "If selected for the position of elector, I  
9 agree to serve and to mark my ballots for President and Vice  
10 President for the nominees for those offices of the party that  
11 nominated me.". Each elector nominee and alternate elector  
12 nominee of an unaffiliated presidential candidate shall  
13 execute the following pledge: "If selected for the position of  
14 elector as a nominee of an unaffiliated presidential  
15 candidate, I agree to serve and to mark my ballots for that  
16 candidate and for that candidate's vice-presidential running  
17 mate.". The executed pledges must accompany the submission of  
18 the corresponding names to the Secretary of State.

19 Section 20. Certification of electors. In submitting this  
20 State's certificate of ascertainment as required by 3 U.S.C.  
21 6, the Governor shall certify this State's electors and state  
22 in the certificate that:

23 (1) the electors will serve as electors unless a  
24 vacancy occurs in the office of elector before the end of

1 the meeting at which elector votes are cast, in which case  
2 an alternate elector will fill the vacancy; and

3 (2) if an alternate elector is appointed to fill a  
4 vacancy, the Governor will submit an amended certificate  
5 of ascertainment stating the names on the final list of  
6 this State's electors.

7 Section 25. Presiding officer; elector vacancy.

8 (a) The Secretary of State shall preside at the meeting of  
9 electors described in Section 30.

10 (b) The position of an elector not present to vote is  
11 vacant. The Secretary of State shall appoint an individual as  
12 an alternate elector to fill a vacancy as follows:

13 (1) if the alternate elector is present to vote, by  
14 appointing the alternate elector for the vacant position;

15 (2) if the alternate elector for the vacant position  
16 is not present to vote, by appointing an elector chosen by  
17 lot from among the alternate electors present to vote who  
18 were nominated by the same political party or unaffiliated  
19 presidential candidate;

20 (3) if the number of alternate electors present to  
21 vote is insufficient to fill any vacant position pursuant  
22 to paragraphs (1) and (2), by appointing any immediately  
23 available individual who is qualified to serve as an  
24 elector and chosen through nomination by and plurality  
25 vote of the remaining electors, including nomination and

1 vote by a single elector if only one remains;

2 (4) if there is a tie between at least 2 nominees for  
3 alternate elector in a vote conducted under paragraph (3),  
4 by appointing an elector chosen by lot from among those  
5 nominees; or

6 (5) if all elector positions are vacant and cannot be  
7 filled pursuant to paragraphs (1) through (4), by  
8 appointing a single presidential elector, with remaining  
9 vacant positions to be filled under paragraph (3) and, if  
10 necessary, paragraph (4).

11 (c) To qualify as an alternate elector under subsection  
12 (b) of this Section, an individual who has not executed the  
13 pledge required under Section 15 shall execute the following  
14 pledge: "I agree to serve and to mark my ballots for President  
15 and Vice President consistent with the pledge of the  
16 individual to whose elector position I have succeeded."

17 Section 30. Elector voting.

18 (a) At the time designated for elector voting and after  
19 all vacant positions have been filled under Section 25, the  
20 Secretary of State shall provide each elector with a  
21 presidential and a vice-presidential ballot. The elector shall  
22 mark the elector's presidential and vice-presidential ballots  
23 with the elector's votes for the offices of President and Vice  
24 President, respectively, along with the elector's signature  
25 and the elector's legibly printed name.

1           (b) Except as otherwise provided by law of this State  
2 other than this Act, each elector shall present both completed  
3 ballots to the Secretary of State, who shall examine the  
4 ballots and accept as cast all ballots of electors whose votes  
5 are consistent with their pledges executed under Section 15 or  
6 subsection (c) of Section 25. Except as otherwise provided by  
7 law of this State other than this Act, the Secretary of State  
8 may not accept and may not count either an elector's  
9 presidential or vice-presidential ballot if the elector has  
10 not marked both ballots or has marked a ballot in violation of  
11 the elector's pledge.

12           (c) An elector who refuses to present a ballot, presents  
13 an unmarked ballot, or presents a ballot marked in violation  
14 of the elector's pledge executed under Section 15 or  
15 subsection (c) of Section 25 vacates the office of elector,  
16 creating a vacant position to be filled under Section 25.

17           (d) The Secretary of State shall distribute ballots to and  
18 collect ballots from an alternate elector and repeat the  
19 process under this Section of examining ballots, declaring and  
20 filling vacant positions as required, and recording  
21 appropriately completed ballots from the alternate electors,  
22 until all of this State's electoral votes have been cast and  
23 recorded.

24           Section 35. Elector replacement; associated certificates.

25           (a) After the vote of this State's electors is completed,

1 if the final list of electors differs from any list that the  
2 Governor previously included on a certificate of ascertainment  
3 prepared and transmitted under 3 U.S.C. 6, the Secretary of  
4 State immediately shall prepare an amended certificate of  
5 ascertainment and transmit it to the Governor for the  
6 Governor's signature.

7 (b) The Governor immediately shall deliver the signed  
8 amended certificate of ascertainment to the Secretary of State  
9 and a signed duplicate original of the amended certificate of  
10 ascertainment to all individuals entitled to receive this  
11 State's certificate of ascertainment, indicating that the  
12 amended certificate of ascertainment is to be substituted for  
13 the certificate of ascertainment previously submitted.

14 (c) The Secretary of State shall prepare a certificate of  
15 vote. The electors on the final list shall sign the  
16 certificate of vote. The Secretary of State shall process and  
17 transmit the signed certificate of vote with the amended  
18 certificate of ascertainment under 3 U.S.C. Sections 9, 10,  
19 and 11.

20 Section 40. Uniformity of application and construction. In  
21 applying and construing this uniform Act, consideration must  
22 be given to the need to promote uniformity of the law with  
23 respect to its subject matter among states that enact it.

24 Section 100. The Election Code is amended by changing

1 Sections 21-1, 21-2, 21-3 and 21-4 as follows:

2 (10 ILCS 5/21-1) (from Ch. 46, par. 21-1)

3 Sec. 21-1. Choosing and election of electors of President  
4 and Vice-President of the United States shall be in the  
5 following manner:

6 (a) In each year in which a President and Vice-President  
7 of the United States are chosen, each political party or group  
8 in this State shall choose by its State Convention or State  
9 central committee electors and alternate electors of President  
10 and Vice-President of the United States and such State  
11 Convention or State central committee of such party or group  
12 shall also choose electors at large and alternate electors at  
13 large, if any are to be appointed for this State and such State  
14 Convention or State central committee of such party or group  
15 shall by its chair and secretary certify the total list of such  
16 electors and alternate electors together with electors at  
17 large and alternate electors at large so chosen to the State  
18 Board of Elections.

19 The filing of such certificate with the Board, of such  
20 choosing of electors and alternate electors shall be deemed  
21 and taken to be the choosing and selection of the electors and  
22 alternate electors of this State, if such party or group is  
23 successful at the polls as herein provided in choosing their  
24 candidates for President and Vice-President of the United  
25 States.



1           (b) The names of the candidates of the several political  
2 parties or groups for electors and alternate electors of  
3 President and Vice-President shall not be printed on the  
4 official ballot to be voted in the election to be held on the  
5 day in this Act above named. In lieu of the names of the  
6 candidates for such electors and alternate electors of  
7 President and Vice-President, immediately under the  
8 appellation of party name of a party or group in the column of  
9 its candidates on the official ballot, to be voted at said  
10 election first above named in subsection (1) of Section 2A-1.2  
11 and Section 2A-2, there shall be printed within a bracket the  
12 name of the candidate for President and the name of the  
13 candidate for Vice-President of such party or group with a  
14 square to the left of such bracket. Each voter in this State  
15 from the several lists or sets of electors and alternate  
16 electors so chosen and selected by the said respective  
17 political parties or groups, may choose and elect one of such  
18 lists or sets of electors and alternate electors by placing a  
19 cross in the square to the left of the bracket aforesaid of one  
20 of such parties or groups. Placing a cross within the square  
21 before the bracket enclosing the names of President and  
22 Vice-President shall not be deemed and taken as a direct vote  
23 for such candidates for President and Vice-President, or  
24 either of them, but shall only be deemed and taken to be a vote  
25 for the entire list or set of electors and alternate electors  
26 chosen by that political party or group so certified to the

1 State Board of Elections as herein provided. Voting by means  
2 of placing a cross in the appropriate place preceding the  
3 appellation or title of the particular political party or  
4 group, shall not be deemed or taken as a direct vote for the  
5 candidates for President and Vice-President, or either of  
6 them, but instead to the Presidential vote, as a vote for the  
7 entire list or set of electors and alternate electors chosen  
8 by that political party or group so certified to the State  
9 Board of Elections as herein provided.

10 (c) Such certification by the respective political parties  
11 or groups in this State of electors and alternate electors of  
12 President and Vice-President shall be made to the State Board  
13 of Elections within 2 days after such State convention or  
14 meeting of the State central committee in which the electors  
15 and alternate electors were chosen.

16 (d) Should more than one certificate of choice and  
17 selection of electors and alternate electors of the same  
18 political party or group be filed by contesting conventions or  
19 contesting groups, it shall be the duty of the State Board of  
20 Elections within 10 days after the adjournment of the last of  
21 such conventions to meet and determine which set of nominees  
22 for electors and alternate electors of such party or group was  
23 chosen and selected by the authorized convention of such party  
24 or group. The Board, after notice to the chair and secretaries  
25 or managers of the conventions or groups and after a hearing  
26 shall determine which set of electors and alternate electors

1 was so chosen by the authorized convention and shall so  
2 announce and publish the fact, and such decision shall be  
3 final and the set of electors and alternate electors so  
4 determined upon by the electoral board to be so chosen shall be  
5 the list or set of electors and alternate electors to be deemed  
6 elected if that party shall be successful at the polls, as  
7 herein provided.

8 ~~(e) Should a vacancy occur in the choice of an elector in a~~  
9 ~~congressional district, such vacancy may be filled by the~~  
10 ~~executive committee of the party or group for such~~  
11 ~~congressional district, to be certified by such committee to~~  
12 ~~the State Board of Elections.~~ Should a vacancy occur in the  
13 office of elector ~~at large~~, such vacancy shall be filled in  
14 accordance with Section 25 of the Uniform Faithful  
15 Presidential Electors Act. ~~by the State committee of such~~  
16 ~~political party or group, and certified by it to the State~~  
17 ~~Board of Elections.~~

18 (Source: P.A. 99-522, eff. 6-30-16; 100-1027, eff. 1-1-19.)

19 (10 ILCS 5/21-2) (from Ch. 46, par. 21-2)

20 Sec. 21-2. The county clerks of the several counties  
21 shall, within 21 days next after holding the election named in  
22 subsection (1) of Section 2A-1.2 and Section 2A-2, make 2  
23 copies of the abstract of the votes cast for electors and  
24 alternate electors by each political party or group, as  
25 indicated by the voter, as aforesaid, by a cross in the square

1 to the left of the bracket aforesaid, or as indicated by a  
2 cross in the appropriate place preceding the appellation or  
3 title of the particular political party or group, and transmit  
4 by mail one of the copies to the office of the State Board of  
5 Elections and retain the other in his office, to be sent for by  
6 the electoral board in case the other should be mislaid.  
7 Within 31 days after the holding of such election, and sooner  
8 if all the returns are received by the State Board of  
9 Elections, the State Board of Elections shall proceed to open  
10 and canvass said election returns and to declare which set of  
11 candidates for President and Vice-President received, as  
12 aforesaid, the highest number of votes cast at such election  
13 as aforesaid; and the electors and alternate electors of that  
14 party whose candidates for President and Vice-President  
15 received the highest number of votes so cast shall be taken and  
16 deemed to be elected as electors and alternate electors of  
17 President and Vice-President, but should 2 or more sets of  
18 candidates for President and Vice-President be returned with  
19 an equal and the highest vote, the State Board of Elections  
20 shall cause a notice of the same to be published, which notice  
21 shall name some day and place, not less than 5 days from the  
22 time of such publication of such notice, upon which the State  
23 Board of Elections will decide by lot which of the sets of  
24 candidates for President and Vice-President so equal and  
25 highest shall be declared to be highest. And upon the day and  
26 at the place so appointed in the notice, the board shall so

1 decide by lot and declare which is deemed highest of the sets  
2 of candidates for President and Vice-President so equal and  
3 highest, thereby determining only that the electors and  
4 alternate electors chosen as aforesaid by such candidates'  
5 party or group are thereby elected by general ticket to be such  
6 electors and alternate electors.

7 (Source: P.A. 100-863, eff. 8-14-18.)

8 (10 ILCS 5/21-3) (from Ch. 46, par. 21-3)

9 Sec. 21-3. Within five days after the votes shall have  
10 been canvassed and the results declared or the result declared  
11 by lot as provided for in Section 21-2 above, the Governor  
12 shall cause the result of said election to be published, and  
13 shall proclaim the persons electors and alternate electors of  
14 President and Vice-President so chosen composing the list so  
15 elected, by transmitting by mail to the several persons so  
16 chosen and composing the list or set elected, electors of  
17 President and Vice-President certificates in triplicate, under  
18 the Seal of State of their appointment, and shall also  
19 transmit under the Seal of State to the Secretary of State of  
20 the United States the certificate of the election of said  
21 electors and alternate electors as required by the laws of  
22 Congress.

23 (Source: Laws 1943, vol. 2, p. 1.)

24 (10 ILCS 5/21-4) (from Ch. 46, par. 21-4)

1           Sec. 21-4. Presidential electors; meeting; allowance. The  
2           electors and alternate electors, elected under this Article,  
3           shall meet at the office of the Secretary of State in a room to  
4           be designated by the Secretary in the Capitol at Springfield  
5           in this State, at the time appointed by the laws of the United  
6           States at the hour of ten o'clock in the forenoon of that day,  
7           and give their votes for President and for Vice-President of  
8           the United States, in the manner provided by the Uniform  
9           Faithful Presidential Electors Act ~~in this Article~~, and  
10          perform such duties as are or may be required by law. Each  
11          elector and alternate elector shall receive an allowance for  
12          food and lodging equal to the amount per day permitted to be  
13          deducted for such expenses under the Internal Revenue Code,  
14          plus a mileage allowance at the rate in effect under  
15          regulations promulgated pursuant to 5 U.S.C. 5707(b)(2) for  
16          the number of highway miles necessarily and conveniently  
17          traveled, for going to the seat of government to give his or  
18          her vote and returning to his or her residence and otherwise  
19          performing the official duties of an elector and alternate  
20          elector, to be paid on the warrant of the State Comptroller,  
21          out of any money in the treasury not otherwise appropriated,  
22          and any person appointed ~~by the electors assembled~~ to fill a  
23          vacancy shall also receive the allowances provided for  
24          electors appointed.

25          (Source: P.A. 92-359, eff. 1-1-02.)

1           (10 ILCS 5/21-5 rep.)

2           Section 105. The Election Code is amended by repealing  
3           Section 21-5.

4           Section 999. Effective date. This Act takes effect upon  
5           becoming law.