



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5790

Introduced 3/22/2024, by Rep. John M. Cabello - Dennis
Tipsword, Jr.

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-6033	from Ch. 34, par. 3-6033
55 ILCS 5/3-7008	from Ch. 34, par. 3-7008
65 ILCS 5/10-1-7	from Ch. 24, par. 10-1-7
65 ILCS 5/10-2.1-6	from Ch. 24, par. 10-2.1-6

Amends the Counties Code. Restores certain provisions of the Counties Code and the Illinois Municipal Code concerning citizenship of employees of a sheriff's department and police officer applicants to the form in which they existed before their amendment by Public Act 103-357. Effective immediately.

LRB103 40015 AWJ 71366 b

1 AN ACT concerning local government.

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

4 Section 3. The Counties Code is amended by changing
5 Sections 3-6033 and 3-7008 as follows:

6 (55 ILCS 5/3-6033) (from Ch. 34, par. 3-6033)

7 Sec. 3-6033. Citizenship and residence. ~~The~~ It is unlawful
8 for the sheriff of any county of fewer than 1,000,000
9 inhabitants, or the corporate authorities of any ~~municipality~~
10 ~~may~~ city, town or village to authorize, empower, employ, or
11 permit ~~a~~ any person to act as deputy sheriff or special
12 policeman for the purpose of preserving the peace, who is not a
13 citizen of the United States, ~~who is legally authorized under~~
14 ~~federal law to work in the United States and is authorized~~
15 ~~under federal law to obtain, carry, or purchase or otherwise~~
16 ~~possess a firearm, or who is an individual against whom~~
17 ~~immigration action has been deferred by the U.S. Citizenship~~
18 ~~and Immigration Services under the federal Deferred Action for~~
19 ~~Childhood Arrivals (DACA) process and is authorized under~~
20 ~~federal law to obtain, carry, or purchase or otherwise possess~~
21 ~~a firearm.~~

22 (Source: P.A. 86-962; 87-357; 103-357, eff. 1-1-24.)

1 (55 ILCS 5/3-7008) (from Ch. 34, par. 3-7008)

2 Sec. 3-7008. Appointments. The appointment of deputy
3 sheriffs in the Police Department, full-time deputy sheriffs
4 not employed as county police officers or county corrections
5 officers and of employees in the Department of Corrections
6 shall be made from those applicants who have been certified by
7 the Board as being qualified for appointment. Certification
8 for appointment in one department shall not constitute
9 certification for appointment in another department.
10 Certification may be made at any point prior to appointment
11 and may be made in conjunction with the Sheriff's application
12 process. All persons so appointed shall, at the time of their
13 appointment, be not less than 21 years of age, or 20 years of
14 age and have successfully completed 2 years of law enforcement
15 studies at an accredited college or university. Any person
16 appointed subsequent to successful completion of 2 years of
17 such law enforcement studies shall not have power of arrest,
18 nor shall he or she be permitted to carry firearms, until he or
19 she reaches 21 years of age. ~~Any person appointed shall be a~~
20 ~~citizen of the United States, an individual who is legally~~
21 ~~authorized to work in the United States under federal law and~~
22 ~~is authorized under federal law to obtain, carry, or purchase~~
23 ~~or otherwise possess a firearm, or an individual against whom~~
24 ~~immigration action has been deferred by the U.S. Citizenship~~
25 ~~and Immigration Services under the federal Deferred Action for~~
26 ~~Childhood Arrivals (DACA) process and who is authorized under~~

1 ~~federal law to obtain, carry, or purchase or otherwise possess~~
2 ~~a firearm.~~ In addition, all persons so appointed shall be not
3 more than the maximum age limit fixed by the Board from time to
4 time, be of sound mind and body, be of good moral character, be
5 citizens of the United States, have not been convicted of a
6 crime which the Board considers to be detrimental to the
7 applicant's ability to carry out his or her duties, possess
8 such prerequisites of training, education and experience as
9 the Board may from time to time prescribe, and shall be
10 required to pass successfully mental, physical, psychiatric
11 and other tests and examinations as may be prescribed by the
12 Board. Preference shall be given in such appointments to
13 persons who have honorably served in the military or naval
14 services of the United States. All appointees shall serve a
15 probationary period of 12 months and during that period may be
16 discharged at the will of the Sheriff. However, civil service
17 employees of the house of correction who have certified status
18 at the time of the transfer of the house of correction to the
19 County Department of Corrections are not subject to this
20 probationary period, and they shall retain their job titles,
21 such tenure privileges as are now enjoyed and any subsequent
22 title changes shall not cause reduction in rank or elimination
23 of positions.

24 (Source: P.A. 100-912, eff. 8-17-18; 103-357, eff. 1-1-24.)

25 Section 5. The Illinois Municipal Code is amended by

1 changing Sections 10-1-7 and 10-2.1-6 as follows:

2 (65 ILCS 5/10-1-7) (from Ch. 24, par. 10-1-7)

3 Sec. 10-1-7. Examination of applicants; disqualifications.

4 (a) All applicants for offices or places in the classified
5 service, except those mentioned in Section 10-1-17, are
6 subject to examination. The examination shall be public,
7 competitive, and open to all citizens of the United States,
8 with specified limitations as to residence, age, health,
9 habits, and moral character. ~~An individual who is not a
10 citizen but is legally authorized to work in the United States
11 under federal law or is an individual against whom immigration
12 action has been deferred by the U.S. Citizenship and
13 Immigration Services under the federal Deferred Action for
14 Childhood Arrivals (DACA) process is authorized to apply for
15 the position of police officer, subject to (i) all
16 requirements and limitations, other than citizenship, to which
17 other applicants are subject and (ii) the individual being
18 authorized under federal law to obtain, carry, or purchase or
19 otherwise possess a firearm.~~

20 (b) Residency requirements in effect at the time an
21 individual enters the fire or police service of a municipality
22 (other than a municipality that has more than 1,000,000
23 inhabitants) cannot be made more restrictive for that
24 individual during his or her period of service for that
25 municipality, or be made a condition of promotion, except for

1 the rank or position of Fire or Police Chief.

2 (c) No person with a record of misdemeanor convictions
3 except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14,
4 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15,
5 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4,
6 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions
7 (a) (1) and (a) (2) (C) of Section 11-14.3, and paragraphs (1),
8 (6), and (8) of subsection (a) of Section 24-1 of the Criminal
9 Code of 1961 or the Criminal Code of 2012 or arrested for any
10 cause but not convicted on that cause shall be disqualified
11 from taking the examination on grounds of habits or moral
12 character, unless the person is attempting to qualify for a
13 position on the police department, in which case the
14 conviction or arrest may be considered as a factor in
15 determining the person's habits or moral character.

16 (d) Persons entitled to military preference under Section
17 10-1-16 shall not be subject to limitations specifying age
18 unless they are applicants for a position as a fireman or a
19 policeman having no previous employment status as a fireman or
20 policeman in the regularly constituted fire or police
21 department of the municipality, in which case they must not
22 have attained their 35th birthday, except any person who has
23 served as an auxiliary police officer under Section 3.1-30-20
24 for at least 5 years and is under 40 years of age.

25 (e) All employees of a municipality of less than 500,000
26 population (except those who would be excluded from the

1 classified service as provided in this Division 1) who are
2 holding that employment as of the date a municipality adopts
3 this Division 1, or as of July 17, 1959, whichever date is the
4 later, and who have held that employment for at least 2 years
5 immediately before that later date, and all firemen and
6 policemen regardless of length of service who were either
7 appointed to their respective positions by the board of fire
8 and police commissioners under the provisions of Division 2 of
9 this Article or who are serving in a position (except as a
10 temporary employee) in the fire or police department in the
11 municipality on the date a municipality adopts this Division
12 1, or as of July 17, 1959, whichever date is the later, shall
13 become members of the classified civil service of the
14 municipality without examination.

15 (f) The examinations shall be practical in their
16 character, and shall relate to those matters that will fairly
17 test the relative capacity of the persons examined to
18 discharge the duties of the positions to which they seek to be
19 appointed. The examinations shall include tests of physical
20 qualifications, health, and (when appropriate) manual skill.
21 If an applicant is unable to pass the physical examination
22 solely as the result of an injury received by the applicant as
23 the result of the performance of an act of duty while working
24 as a temporary employee in the position for which he or she is
25 being examined, however, the physical examination shall be
26 waived and the applicant shall be considered to have passed

1 the examination. No questions in any examination shall relate
2 to political or religious opinions or affiliations. Results of
3 examinations and the eligible registers prepared from the
4 results shall be published by the commission within 60 days
5 after any examinations are held.

6 (g) The commission shall control all examinations, and
7 may, whenever an examination is to take place, designate a
8 suitable number of persons, either in or not in the official
9 service of the municipality, to be examiners. The examiners
10 shall conduct the examinations as directed by the commission
11 and shall make a return or report of the examinations to the
12 commission. If the appointed examiners are in the official
13 service of the municipality, the examiners shall not receive
14 extra compensation for conducting the examinations unless the
15 examiners are subject to a collective bargaining agreement
16 with the municipality. The commission may at any time
17 substitute any other person, whether or not in the service of
18 the municipality, in the place of any one selected as an
19 examiner. The commission members may themselves at any time
20 act as examiners without appointing examiners. The examiners
21 at any examination shall not all be members of the same
22 political party.

23 (h) In municipalities of 500,000 or more population, no
24 person who has attained his or her 35th birthday shall be
25 eligible to take an examination for a position as a fireman or
26 a policeman unless the person has had previous employment

1 status as a policeman or fireman in the regularly constituted
2 police or fire department of the municipality, except as
3 provided in this Section.

4 (i) In municipalities of more than 5,000 but not more than
5 200,000 inhabitants, no person who has attained his or her
6 35th birthday shall be eligible to take an examination for a
7 position as a fireman or a policeman unless the person has had
8 previous employment status as a policeman or fireman in the
9 regularly constituted police or fire department of the
10 municipality, except as provided in this Section.

11 (j) In all municipalities, applicants who are 20 years of
12 age and who have successfully completed 2 years of law
13 enforcement studies at an accredited college or university may
14 be considered for appointment to active duty with the police
15 department. An applicant described in this subsection (j) who
16 is appointed to active duty shall not have power of arrest, nor
17 shall the applicant be permitted to carry firearms, until he
18 or she reaches 21 years of age.

19 (k) In municipalities of more than 500,000 population,
20 applications for examination for and appointment to positions
21 as firefighters or police shall be made available at various
22 branches of the public library of the municipality.

23 (l) No municipality having a population less than
24 1,000,000 shall require that any fireman appointed to the
25 lowest rank serve a probationary employment period of longer
26 than one year. The limitation on periods of probationary

1 employment provided in Public Act 86-990 is an exclusive power
2 and function of the State. Pursuant to subsection (h) of
3 Section 6 of Article VII of the Illinois Constitution, a home
4 rule municipality having a population less than 1,000,000 must
5 comply with this limitation on periods of probationary
6 employment, which is a denial and limitation of home rule
7 powers. Notwithstanding anything to the contrary in this
8 Section, the probationary employment period limitation may be
9 extended for a firefighter who is required, as a condition of
10 employment, to be a licensed paramedic, during which time the
11 sole reason that a firefighter may be discharged without a
12 hearing is for failing to meet the requirements for paramedic
13 licensure.

14 (m) To the extent that this Section or any other Section in
15 this Division conflicts with Section 10-1-7.1 or 10-1-7.2,
16 then Section 10-1-7.1 or 10-1-7.2 shall control.

17 (Source: P.A. 102-813, eff. 5-13-22; 103-357, eff. 1-1-24.)

18 (65 ILCS 5/10-2.1-6) (from Ch. 24, par. 10-2.1-6)

19 Sec. 10-2.1-6. Examination of applicants;
20 disqualifications.

21 (a) All applicants for a position in either the fire or
22 police department of the municipality shall be under 35 years
23 of age, shall be subject to an examination that shall be
24 public, competitive, and open to all applicants (unless the
25 council or board of trustees by ordinance limit applicants to

1 electors of the municipality, county, state, or nation) and
2 shall be subject to reasonable limitations as to residence,
3 health, habits, and moral character. ~~An individual who is not~~
4 ~~a citizen but is legally authorized to work in the United~~
5 ~~States under federal law or is an individual against whom~~
6 ~~immigration action has been deferred by the U.S. Citizenship~~
7 ~~and Immigration Services under the federal Deferred Action for~~
8 ~~Childhood Arrivals (DACA) process is authorized to apply for~~
9 ~~the position of police officer, subject to (i) all~~
10 ~~requirements and limitations, other than citizenship, to which~~
11 ~~other applicants are subject and (ii) the individual being~~
12 ~~authorized under federal law to obtain, carry, or purchase or~~
13 ~~otherwise possess a firearm.~~ The municipality may not charge
14 or collect any fee from an applicant who has met all
15 prequalification standards established by the municipality for
16 any such position. With respect to a police department, a
17 veteran shall be allowed to exceed the maximum age provision
18 of this Section by the number of years served on active
19 military duty, but by no more than 10 years of active military
20 duty.

21 (b) Residency requirements in effect at the time an
22 individual enters the fire or police service of a municipality
23 (other than a municipality that has more than 1,000,000
24 inhabitants) cannot be made more restrictive for that
25 individual during his period of service for that municipality,
26 or be made a condition of promotion, except for the rank or

1 position of Fire or Police Chief.

2 (c) No person with a record of misdemeanor convictions
3 except those under Sections 11-1.50, 11-6, 11-7, 11-9, 11-14,
4 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2, 12-6, 12-15,
5 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4,
6 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8, subdivisions
7 (a) (1) and (a) (2) (C) of Section 11-14.3, and paragraphs (1),
8 (6), and (8) of subsection (a) of Section 24-1 of the Criminal
9 Code of 1961 or the Criminal Code of 2012, or arrested for any
10 cause but not convicted on that cause shall be disqualified
11 from taking the examination to qualify for a position in the
12 fire department on grounds of habits or moral character.

13 (d) The age limitation in subsection (a) does not apply
14 (i) to any person previously employed as a policeman or
15 fireman in a regularly constituted police or fire department
16 of (I) any municipality, regardless of whether the
17 municipality is located in Illinois or in another state, or
18 (II) a fire protection district whose obligations were assumed
19 by a municipality under Section 21 of the Fire Protection
20 District Act, (ii) to any person who has served a municipality
21 as a regularly enrolled volunteer fireman for 5 years
22 immediately preceding the time that municipality begins to use
23 full time firemen to provide all or part of its fire protection
24 service, or (iii) to any person who has served as an auxiliary
25 police officer under Section 3.1-30-20 for at least 5 years
26 and is under 40 years of age, (iv) to any person who has served

1 as a deputy under Section 3-6008 of the Counties Code and
2 otherwise meets necessary training requirements, or (v) to any
3 person who has served as a sworn officer as a member of the
4 Illinois State Police.

5 (e) Applicants who are 20 years of age and who have
6 successfully completed 2 years of law enforcement studies at
7 an accredited college or university may be considered for
8 appointment to active duty with the police department. An
9 applicant described in this subsection (e) who is appointed to
10 active duty shall not have power of arrest, nor shall the
11 applicant be permitted to carry firearms, until he or she
12 reaches 21 years of age.

13 (f) Applicants who are 18 years of age and who have
14 successfully completed 2 years of study in fire techniques,
15 amounting to a total of 4 high school credits, within the cadet
16 program of a municipality may be considered for appointment to
17 active duty with the fire department of any municipality.

18 (g) The council or board of trustees may by ordinance
19 provide that persons residing outside the municipality are
20 eligible to take the examination.

21 (h) The examinations shall be practical in character and
22 relate to those matters that will fairly test the capacity of
23 the persons examined to discharge the duties of the positions
24 to which they seek appointment. No person shall be appointed
25 to the police or fire department if he or she does not possess
26 a high school diploma or an equivalent high school education.

1 A board of fire and police commissioners may, by its rules,
2 require police applicants to have obtained an associate's
3 degree or a bachelor's degree as a prerequisite for
4 employment. The examinations shall include tests of physical
5 qualifications and health. A board of fire and police
6 commissioners may, by its rules, waive portions of the
7 required examination for police applicants who have previously
8 been full-time sworn officers of a regular police department
9 in any municipal, county, university, or State law enforcement
10 agency, provided they are certified by the Illinois Law
11 Enforcement Training Standards Board and have been with their
12 respective law enforcement agency within the State for at
13 least 2 years. No person shall be appointed to the police or
14 fire department if he or she has suffered the amputation of any
15 limb unless the applicant's duties will be only clerical or as
16 a radio operator. No applicant shall be examined concerning
17 his or her political or religious opinions or affiliations.
18 The examinations shall be conducted by the board of fire and
19 police commissioners of the municipality as provided in this
20 Division 2.1.

21 The requirement that a police applicant possess an
22 associate's degree under this subsection may be waived if one
23 or more of the following applies: (1) the applicant has served
24 for 24 months of honorable active duty in the United States
25 Armed Forces and has not been discharged dishonorably or under
26 circumstances other than honorable; (2) the applicant has

1 served for 180 days of active duty in the United States Armed
2 Forces in combat duty recognized by the Department of Defense
3 and has not been discharged dishonorably or under
4 circumstances other than honorable; or (3) the applicant has
5 successfully received credit for a minimum of 60 credit hours
6 toward a bachelor's degree from an accredited college or
7 university.

8 The requirement that a police applicant possess a
9 bachelor's degree under this subsection may be waived if one
10 or more of the following applies: (1) the applicant has served
11 for 36 months of honorable active duty in the United States
12 Armed Forces and has not been discharged dishonorably or under
13 circumstances other than honorable or (2) the applicant has
14 served for 180 days of active duty in the United States Armed
15 Forces in combat duty recognized by the Department of Defense
16 and has not been discharged dishonorably or under
17 circumstances other than honorable.

18 (i) No person who is classified by his local selective
19 service draft board as a conscientious objector, or who has
20 ever been so classified, may be appointed to the police
21 department.

22 (j) No person shall be appointed to the police or fire
23 department unless he or she is a person of good character and
24 not an habitual drunkard, gambler, or a person who has been
25 convicted of a felony or a crime involving moral turpitude. No
26 person, however, shall be disqualified from appointment to the

1 fire department because of his or her record of misdemeanor
2 convictions except those under Sections 11-1.50, 11-6, 11-7,
3 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 11-30, 11-35, 12-2,
4 12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3,
5 31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, and 32-8,
6 subdivisions (a)(1) and (a)(2)(C) of Section 11-14.3, and
7 paragraphs (1), (6), and (8) of subsection (a) of Section 24-1
8 of the Criminal Code of 1961 or the Criminal Code of 2012, or
9 arrest for any cause without conviction on that cause. Any
10 such person who is in the department may be removed on charges
11 brought and after a trial as provided in this Division 2.1.

12 (Source: P.A. 102-538, eff. 8-20-21; 102-813, eff. 5-13-22;
13 103-357, eff. 1-1-24.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.