



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB1454**

Introduced 02/10/05, by Rep. John A. Fritchey

**SYNOPSIS AS INTRODUCED:**

|                |                        |
|----------------|------------------------|
| 10 ILCS 5/3-5  | from Ch. 46, par. 3-5  |
| 10 ILCS 5/19-1 | from Ch. 46, par. 19-1 |
| 10 ILCS 5/19-2 | from Ch. 46, par. 19-2 |
| 10 ILCS 5/19-5 | from Ch. 46, par. 19-5 |

Amends the Election Code. Specifies that confinement or detention in a jail or prison pending acquittal or conviction of a crime is not a disqualification for voting. Makes such confinement or detention a specified reason for absentee voting.

LRB094 05952 JAM 36008 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 5. The Election Code is amended by changing  
5 Sections 3-5, 19-1, 19-2, and 19-5 as follows:

6 (10 ILCS 5/3-5) (from Ch. 46, par. 3-5)

7 Sec. 3-5. No person who has been legally convicted, in this  
8 or another State or in any federal court, of any crime, and is  
9 serving a sentence of confinement in any penal institution, or  
10 who has been convicted under any section of this Act and is  
11 serving a sentence of confinement in any penal institution,  
12 shall vote, offer to vote, attempt to vote or be permitted to  
13 vote at any election until his release from confinement.

14 Confinement for purposes of this Section shall include any  
15 person convicted and imprisoned but granted a furlough as  
16 provided by Section 3-11-1 of the "Unified Code of  
17 Corrections", or admitted to a work release program as provided  
18 by Section 3-13-2 of the "Unified Code of Corrections".  
19 Confinement shall not include any person convicted and  
20 imprisoned but released on parole.

21 Confinement or detention in a jail or prison pending  
22 acquittal or conviction of a crime is not a disqualification  
23 for voting.

24 (Source: P.A. 80-699.)

25 (10 ILCS 5/19-1) (from Ch. 46, par. 19-1)

26 Sec. 19-1. Any qualified elector of the State of Illinois  
27 having duly registered where such registration is required who  
28 expects to be absent from the county in which he is a qualified  
29 elector or who because of being appointed a judge of election  
30 in a precinct other than the precinct in which he resides or  
31 who because of physical incapacity or the tenets of his

1 religion in the observance of a religious holiday or who  
2 because of election duties for the office of an Election  
3 Authority or the State Board of Elections or who because of  
4 election duties for a law enforcement agency, including but not  
5 limited to the offices of the Attorney General, a State's  
6 Attorney, a United States Attorney, or a State, county, or  
7 municipal police department, or who, because he is temporarily  
8 abiding outside the precinct in which he is registered to vote  
9 due to the fact he is a student attending an institution of  
10 higher education or who is serving as a sequestered juror on a  
11 State or federal jury, or who because of his or her confinement  
12 or detention in a jail or prison pending acquittal or  
13 conviction of a crime, will be unable to be present at the  
14 polls on the day of holding any special, general or primary  
15 election at which any presidential preference is indicated or  
16 any candidates are chosen or elected, for any congressional,  
17 State, district, county, town, city, village, precinct or  
18 judicial offices or at which questions of public policy are  
19 submitted, may vote at such election as hereinafter in this  
20 Article provided.

21 Each Election Authority, law enforcement agency, and the  
22 State Board of Elections shall compile and keep current a list  
23 of his or its officers or employees who are eligible to vote  
24 under this Article by reason of election duties.

25 For purposes of this Article 19, a physically incapacitated  
26 voter marks his or her ballot "personally" when the voter  
27 exercises his or her physical abilities to their reasonable  
28 limit in marking the ballot, and marking personally may include  
29 instructing the person assisting the incapacitated voter when  
30 giving such instruction represents the reasonable limit of the  
31 physical abilities.

32 (Source: P.A. 86-873; 86-875; 86-1028.)

33 (10 ILCS 5/19-2) (from Ch. 46, par. 19-2)

34 Sec. 19-2. Any elector as defined in Section 19-1 expecting  
35 to be absent from the county of his residence or any such

1 elector who because of being appointed a judge of election in a  
2 precinct other than the precinct in which he resides or who  
3 because of physical incapacity or the tenets of his religion in  
4 the observance of a religious holiday or who because of  
5 election duties for the office of an Election Authority, the  
6 State Board of Elections, or a law enforcement agency, or who  
7 because of his or her confinement or detention in a jail or  
8 prison pending acquittal or conviction of a crime, will be  
9 unable to be present at the polls on the day of such election  
10 may by mail, not more than 40 nor less than 5 days prior to the  
11 date of such election, or by personal delivery not more than 40  
12 nor less than one day prior to the date of such election, make  
13 application to the county clerk or to the Board of Election  
14 Commissioners for an official ballot for the voter's precinct  
15 to be voted at such election.

16 (Source: P.A. 84-808.)

17 (10 ILCS 5/19-5) (from Ch. 46, par. 19-5)

18 Sec. 19-5. It shall be the duty of the election authority  
19 to fold the ballot or ballots in the manner specified by the  
20 statute for folding ballots prior to their deposit in the  
21 ballot box, and to enclose such ballot or ballots in an  
22 envelope unsealed to be furnished by him, which envelope shall  
23 bear upon the face thereof the name, official title and post  
24 office address of the election authority, and upon the other  
25 side if the ballot is to go to an elector who is to be out of  
26 the county on the day of the election a printed certification  
27 in substantially the following form:

28 I state that I am a resident of the .... precinct of the  
29 (1) \*township of .... (2) \*City of .... or (3) \*.... ward in  
30 the city of .... residing at .... in such city or town in the  
31 county of .... and State of Illinois, that I have lived at such  
32 address for .... months last past; that I am lawfully entitled  
33 to vote in such precinct at the .... election to be held on  
34 ....; and I expect to be absent from the county of my residence  
35 on the date of such election.

1 \*fill in either (1), (2) or (3).

2 I further state that I personally marked the enclosed  
3 ballot in secret.

4 Under penalties of perjury as provided by law pursuant to  
5 Section 29-10 of The Election Code, the undersigned certifies  
6 that the statements set forth in this certification are true  
7 and correct.

8 .....

9 If the ballot is to go to an elector who is physically  
10 incapacitated the envelope shall bear upon the back thereof a  
11 certification in substantially the following form:

12 I state that I am a resident of the .... precinct of the  
13 (1) \*township of .... (2) \*City of .... or (3) \*.... ward in  
14 the city of .... residing at .... in such city or town in the  
15 county of .... and State of Illinois, that I have lived at such  
16 address for .... months last past; that I am lawfully entitled  
17 to vote in such precinct at the .... election to be held on  
18 ....; that I shall be physically incapable of being present at  
19 the polls of such precinct on the date of holding such  
20 election.

21 \*fill in either (1), (2) or (3).

22 I further state that I personally marked the enclosed  
23 ballot in secret. If I received assistance in casting my  
24 ballot, I further attest that, due to physical incapacity, I  
25 marked the enclosed ballot in secret with the assistance of

26 .....

27 (Individual rendering assistance)

28 .....

29 (Residence Address)

30 Under penalties of perjury as provided by law pursuant to  
31 Section 29-10 of The Election Code, the undersigned certifies  
32 that the statements set forth in this certification are true  
33 and correct.

34 .....

35 In the case of a voter who is voting absentee by reason of  
36 physical incapacity, marking a ballot in secret includes

1 marking a ballot with the assistance of another individual,  
 2 other than a candidate whose name appears on the ballot (unless  
 3 the voter is the spouse or a parent, child, brother, or sister  
 4 of the candidate), the voter's employer, an agent of that  
 5 employer or an officer or agent of the voter's union, when the  
 6 voter's physical incapacity necessitates such assistance.

7 If the ballot is to go to an elector who is unable to be  
 8 present at the polls on the date of the election because of the  
 9 observance of a religious holiday, the envelope shall bear upon  
 10 the back thereof a certification in substantially the following  
 11 form:

12 I state that I am a resident of the .... precinct of the  
 13 (1) \*township of .... (2) \*City of .... or (3) \*.... ward in  
 14 the city of .... residing at .... in said city or town in the  
 15 county of .... and State of Illinois, that I have lived at such  
 16 address for .... months last past; that I am lawfully entitled  
 17 to vote in such precinct at the .... election to be held on  
 18 ....; that I shall be unable to be present at the polls of such  
 19 precinct on the date of holding such election because of the  
 20 tenets of my religion in the observance of a religious holiday.  
 21 \*fill in either (1), (2) or (3).

22 I further state that I personally marked the enclosed  
 23 ballot in secret.

24 Under penalties of perjury as provided by law pursuant to  
 25 Section 29-10 of The Election Code, the undersigned certifies  
 26 that the statements set forth in this certification are true  
 27 and correct.

28 .....

29 If the ballot is to go to an elector who is unable to be  
 30 present at the polls on the date of the election because he or  
 31 she is confined or detained in jail or prison pending acquittal  
 32 or conviction of a crime, the envelope shall bear upon the back  
 33 thereof a certification in substantially the following form:

34 I state that I am a resident of the .... precinct of the  
 35 (1) \*township of .... (2) \*City of.... or (3) \*.... ward in the  
 36 city of .... residing at .... in that city or town in the

1 county of .... and State of Illinois, that I have lived at such  
 2 address for .... months last past; that I am lawfully entitled  
 3 to vote in such precinct at the .... election to be held on  
 4 ....; that I shall be unable to be present at the polls of such  
 5 precinct on the date of holding such election because of my  
 6 confinement or detention in jail or prison pending acquittal or  
 7 conviction of a crime.

8 \*fill in either (1), (2) or (3).

9 I further state that I personally marked the enclosed  
 10 ballot in secret.

11 Under penalties of perjury as provided by law pursuant to  
 12 Section 29-10 of The Election Code, the undersigned certified  
 13 that the statements set forth in this certification are true  
 14 and correct.

15 .....

16 If the ballot is to go to an elector who is temporarily  
 17 abiding outside the precinct in which he is registered to vote  
 18 due to the fact he is a student attending an institution of  
 19 higher education the envelope shall bear upon the back thereof  
 20 a certification in substantially the following form:

21 I state that I am a resident of the .... precinct of the  
 22 (1) \*township of .... (2) \*City of .... or (3) \*.... ward in  
 23 the city of .... residing at .... in such city or town in the  
 24 county of .... and State of Illinois, that I have lived at such  
 25 address for .... months last past; that I am lawfully entitled  
 26 to vote in such precinct at the .... election to be held on  
 27 ....; and I expect to be absent from the precinct of my  
 28 residence on the date of such election because I am temporarily  
 29 abiding outside such precinct in the (1) \*township of .... (2)  
 30 \*city of .... in the county of .... and State of .... due to the  
 31 fact I am a student attending an institution of higher  
 32 education.

33 \*fill in either (1), (2) or (3).

34 I further state that I personally marked the enclosed  
 35 ballot in secret.

36 Under penalties of perjury as provided by law pursuant to

1 Section 29-10 of The Election Code, the undersigned certifies  
2 that the statements set forth in this certification are true  
3 and correct.

4 .....

5 If the election authority adopts the standard absentee  
6 ballot application blank provided in Section 19-3, the printed  
7 certification on the absentee ballot envelope shall be in  
8 substantially the following form:

9 I state that I am a resident of the ..... precinct of the  
10 (1) \*township of..... (2) \*City of ..... or (3) \*..... ward  
11 in the city of ..... residing at ..... in said city or town  
12 in the county of ..... and State of Illinois, that I have  
13 lived at such address for .... months last past; that I shall  
14 be unable to be present at the polls of such precinct on the  
15 date of holding such election for the reason indicated on the  
16 application for ballot enclosed herein.

17 \*fill in either (1), (2) or (3).

18 I further state that I personally marked the enclosed  
19 ballot in secret. If I received assistance in casting my  
20 ballot, I further attest that, due to physical incapacity, I  
21 marked the enclosed ballot in secret with the assistance of

22 .....

23 (Individual rendering assistance)

24 .....

25 (Residence Address)

26 Under penalties of perjury provided by law pursuant to  
27 Section 29-10 of the Election Code, the undersigned certifies  
28 that the statements set forth in this certification are true  
29 and correct.

30 .....

31 In the case of a voter who is voting absentee by reason of  
32 physical incapacity, marking a ballot in secret includes  
33 marking a ballot with the assistance of another individual,  
34 other than a candidate whose name appears on the ballot (unless  
35 the voter is the spouse or a parent, child, brother, or sister  
36 of the candidate), the voter's employer, an agent of that



1 employer, or an officer or agent of the voter's union, when the  
2 voter's physical incapacity necessitates such assistance.

3 Provided, that if the ballot enclosed is to be voted at a  
4 primary election, the certification shall designate the name of  
5 the political party with which the voter is affiliated.

6 In addition to the above, the election authority shall  
7 provide printed slips giving full instructions regarding the  
8 manner of marking and returning the ballot in order that the  
9 same may be counted, and shall furnish one of such printed  
10 slips to each of such applicants at the same time the ballot is  
11 delivered to him. Such instructions shall include the following  
12 statement: "In signing the certification on the absentee ballot  
13 envelope, you are attesting that you personally marked this  
14 absentee ballot in secret. If you are physically unable to mark  
15 the ballot, a friend or relative may assist you after  
16 completing the enclosed affidavit. Federal and State laws  
17 prohibit a candidate whose name appears on the ballot (unless  
18 you are the spouse or a parent, child, brother, or sister of  
19 the candidate), your employer, your employer's agent or an  
20 officer or agent of your union from assisting physically  
21 disabled voters."

22 In addition to the above, if a ballot to be provided to an  
23 elector pursuant to this Section contains a public question  
24 described in subsection (b) of Section 28-6 and the territory  
25 concerning which the question is to be submitted is not  
26 described on the ballot due to the space limitations of such  
27 ballot, the election authority shall provide a printed copy of  
28 a notice of the public question, which shall include a  
29 description of the territory in the manner required by Section  
30 16-7. The notice shall be furnished to the elector at the same  
31 time the ballot is delivered to the elector.

32 (Source: P.A. 89-653, eff. 8-14-96.)