

The Public Servant

The newsletter of the Illinois State Bar Association's Committee on Government Lawyers

P.A. 100-746: Illinois Public Library District Act amendment

BY PHILLIP LENZINI

Public Act 100-746 (the "Public Act"), effective January 1, 2019, amended the Illinois Public Library District Act, 75 ILCS 16/30-20 (the "Library District Act"), by adding three new sub-sections: (d), (e), and (f). Subsection (f) merely provides that the amendment applies to candidates (by petition or write-in) for the April 2019 election and thereafter and all appointees to library district boards following the amendment's effective date.

Although the Library District Act applies only to public libraries organized and operating as "library districts" (as distinct from "local libraries" that are established in some Illinois cities, villages, towns, and townships), the highest number of tax-supported Illinois libraries are organized as districts. On February 5, 2019, Senator John Curran filed SB1149, which proposes substantially the same changes for library trustees' eligibility in some of the *local* libraries (incorporated towns, villages and townships, but not city library boards) as those set forth in the Act. In addition, SB1149 would remove the requirement added by the Public Act that provides that any "indebtedness due to the library," even beyond unpaid library property taxes, is a disqualifying factor to be a library trustee. Of course, with respect to *free public libraries* in Illinois, such "other indebtedness" (e.g.,

unpaid photocopy charges, fax charges, or program fees) is virtually non-existent or very infrequent and modest in fact anyway.

Under the Library District Act, each district has seven trustees, each of whom is elected for a six-year term. (However, by resolution, that six-year term can be reduced to a four-year term.) Although the mayor appoints nine board members for a city library, and those board members each have a three-year term, other types of local libraries in incorporated towns, villages and townships, for the most part, have seven member boards, with each member elected to a six-year term (though, by resolution, that six years can be reduced to four year terms). No library trustee position may be compensated, and no consecutive term limits apply.

Returning to the changes made by the Public Act, subsection (d) sets forth an eligibility requirement that a library trustee must be a qualified elector of the district and have resided within the district for at least one year at the time of filing. Although being a resident of the district has always been a requirement, the Public Act adds that a library trustee must be a "qualified elector" and that his or her must reside in the district for at least one year before the filing. Under subsection (e), the eligibility requirements include that a person not be "in arrears in the payment of

a tax or other indebtedness due" the library district and that the person not have ever been "convicted in any court in the United States of any infamous crime, bribery, perjury, or other felony." Since under the previous version of the Library District Act a vacancy in the trustee office was declared whenever library taxes had not been paid, at least arguably, the changes made by subsection (e) of the Public Act relate only to the "other indebtedness" clause, (i.e., the very element which SB1149 would delete) and the conviction "of any infamous crime, bribery, perjury, or other felony." It is this change (which SB1149 would also make for local libraries) that has generated numerous inquiries since its adoption and which this article will next address in more detail.

Likely due, at least in part, to the plethora of law enforcement actions over the past 50 years and the drug related activities throughout that time, several sections of Illinois' Criminal Codes have adopted the concept of deferral programs with respect to what are otherwise structured as felony criminal activities. At least three specific types have already presented themselves in the context of the changes made by the Public Act, these being what have been commonly referred to as "410 probation" (for controlled

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substance charges); “710 probation” (for cannabis charges and based on a prior numbering of statutes); and the comparable probation program for methamphetamines. Each of these statutory programs include a provision that states:

A disposition of probation [under the respective statute] is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of this Act [Illinois’ Criminal Code] or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

Therefore, in spite of the cursory reports indicating either a felony charge or misstating a felony disposition record, each of these “probation” dispositions clearly provides, that if or when successfully discharged or dismissed, the individual

is NOT disqualified or disabled as having been “convicted” of a felony. And, therefore, under the Public Act, or the current language of SB1149, the individual is not ineligible from serving as a library trustee. In other words, if a library trustee or person interested in being elected or appointed to such a trustee position, he or she is *not* rendered ineligible due to a past “410 probation,” “710 probation,” or methamphetamine probation disposition, so long as the probation was successfully completed. The person seeking to become a library trustee may even wish to pursue an expungement of his or her record under those circumstances. ■

1. 720 ILCS 570/410.
2. 720 ILCS 550/10.
3. 720 ILCS 646/70.
4. 720 ILCS 570/410(g).

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