
SENATE BILL No. 501

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-7-13-6; IC 3-11.

Synopsis: Voting rights. Allows a person placed in a state or county work release program to register and vote. Adds imprisonment or lawful detention for a crime for which the defendant has been charged but not convicted to the circumstances in which a voter can vote by mail or before an absentee voters board.

Effective: July 1, 2004.

Howard

January 13, 2004, read first time and referred to Committee on Elections and Civic Affairs.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 501



A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-7-13-6 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2004]: Sec. 6. ~~(a)~~ This section applies to a
3 person who is:
4 ~~(1)~~ otherwise qualified to register under this article; and
5 ~~(2)~~ not imprisoned or subject to lawful detention.
6 ~~(b)~~ A person described in subsection ~~(a)~~ who: is
7 ~~(1)~~ is:
8 ~~(1)~~ (A) on probation;
9 ~~(2)~~ (B) on parole;
10 ~~(3)~~ (C) subject to home detention under IC 35-38-2.5; ~~or~~
11 ~~(4)~~ (D) placed in a community corrections program under
12 IC 35-38-2.6;
13 (E) placed in a work release program that is established by
14 the department of correction under IC 11-10-8 or
15 IC 11-10-10; or
16 (F) placed in a county work release program under
17 IC 11-12-5; and



1 **(2) is otherwise qualified to register under this article;**
 2 is eligible to register and to vote.
 3 SECTION 2. IC 3-11-4-1, AS AMENDED BY P.L.126-2002,
 4 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2004]: Sec. 1. (a) A voter who is otherwise qualified to vote
 6 in person is entitled to vote by absentee ballot. Except as otherwise
 7 provided in this article, a voter voting by absentee ballot must vote in
 8 the office of the circuit court clerk or at a satellite office established
 9 under IC 3-11-10-26.3.
 10 (b) A county election board, by unanimous vote of its entire
 11 membership, may authorize a person who is otherwise qualified to vote
 12 in person to vote by absentee ballot if the board determines that the
 13 person:
 14 **(1) has been hospitalized; or**
 15 **(2) has suffered an injury; or**
 16 **(3) is imprisoned or subject to lawful detention for a crime for**
 17 **which the person has been charged but not convicted;**
 18 following the final date and hour for applying for an absentee ballot
 19 that would prevent the person from voting in person at the polls.
 20 (c) The commission, by unanimous vote of its entire membership,
 21 may authorize a person who is otherwise qualified to vote in person to
 22 vote by absentee ballot if the commission determines that an
 23 emergency prevents the person from voting in person at a polling place.
 24 (d) The absentee ballots used in subsection (b) or (c) must be the
 25 same official absentee ballots as described in section 12 and 13 of this
 26 chapter. Taking into consideration the amount of time remaining before
 27 the election, the commission shall determine whether the absentee
 28 ballots are transmitted to and from the voter by mail or personally
 29 delivered. An absentee ballot that is personally delivered shall comply
 30 with the requirements in sections 19, 20, and 21 of this chapter.
 31 SECTION 3. IC 3-11-4-3, AS AMENDED BY P.L.1-2003,
 32 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (b) and
 34 section 6 of this chapter, an application for an absentee ballot must be
 35 received by the circuit court clerk (or, in a county subject to IC 3-6-5.2,
 36 the director of the board of elections and registration) not earlier than
 37 ninety (90) days before election day nor later than the following:
 38 (1) Noon on election day if the voter registers to vote under
 39 IC 3-7-36-14.
 40 (2) Noon on the day before election day if the voter completes the
 41 application in the office of the circuit court clerk.
 42 (3) Noon on the day before election day if:

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1 (A) the application is a mailed or hand delivered application
 2 from:
 3 (i) a confined voter; or
 4 (ii) a voter caring for a confined person; or
 5 (iii) a voter imprisoned or subject to lawful detention for
 6 a crime for which the voter has been charged but not
 7 convicted; and
 8 (B) the applicant requests that the absentee ballots be
 9 delivered to the applicant by an absentee voter board.
 10 (4) Midnight on the eighth day before election day if the
 11 application:
 12 (A) is a mailed application; or
 13 (B) was transmitted by fax;
 14 from other voters.
 15 (b) This subsection applies to an absentee ballot application from:
 16 (1) a confined voter; or
 17 (2) a voter caring for a confined person; or
 18 (3) a voter imprisoned or subject to lawful detention for a
 19 crime for which the voter has been charged but not convicted;
 20 that is sent by fax, mailed, or hand delivered to the circuit court clerk
 21 of a county having a consolidated city. An application subject to this
 22 subsection that is sent by fax or hand delivered must be received by the
 23 circuit court clerk not earlier than ninety (90) days before election day
 24 nor later than 10 p.m. on the fifth day before election day. An
 25 application subject to this subsection that is mailed must be received
 26 by the circuit court clerk not earlier than ninety (90) days before
 27 election day and not later than 10 p.m. on the eighth day before election
 28 day.
 29 SECTION 4. IC 3-11-4-18, AS AMENDED BY P.L.209-2003,
 30 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) If a voter satisfies any of the
 32 following, the county election board shall, at the request of the voter,
 33 mail the official ballot, postage fully prepaid, to the voter at the address
 34 stated in the application:
 35 (1) The voter will be absent from the county on election day.
 36 (2) The voter will be absent from the precinct of the voter's
 37 residence on election day because of service as:
 38 (A) a precinct election officer under IC 3-6-6;
 39 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 40 (C) a challenger or pollbook holder under IC 3-6-7; or
 41 (D) a person employed by an election board to administer the
 42 election for which the absentee ballot is requested.

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- 1 (3) The voter will be confined on election day to the voter's
- 2 residence, to a health care facility, or to a hospital because of an
- 3 illness or injury.
- 4 (4) The voter is a voter with disabilities.
- 5 (5) The voter is an elderly voter.
- 6 (6) The voter is prevented from voting due to the voter's care of
- 7 an individual confined to a private residence because of illness or
- 8 injury.
- 9 (7) The voter is scheduled to work at the person's regular place of
- 10 employment during the entire twelve (12) hours that the polls are
- 11 open.
- 12 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 13 **(9) The voter on election day will be:**
- 14 **(A) imprisoned; or**
- 15 **(B) otherwise subject to lawful detention;**
- 16 **for a crime for which the voter has been charged but not**
- 17 **convicted.**
- 18 (b) This subsection applies after December 31, 2003. If the county
- 19 election board mails an absentee ballot to a voter required to file
- 20 additional documentation with the county voter registration office
- 21 before voting by absentee ballot under this chapter, the board shall
- 22 include a notice to the voter in the envelope mailed to the voter under
- 23 section 20 of this chapter. The notice must inform the voter that the
- 24 voter must file the additional documentation required under
- 25 IC 3-7-33-4.5 with the county voter registration office not later than
- 26 noon on election day for the absentee ballot to be counted. The
- 27 commission shall prescribe the form of this notice under IC 3-5-4-8.
- 28 (c) The ballot shall be mailed:
- 29 (1) on the day of the receipt of the voter's application; or
- 30 (2) not more than five (5) days after the date of delivery of the
- 31 ballots under section 15 of this chapter;
- 32 whichever is later.
- 33 (d) In addition to the ballot mailed under subsection (c), the county
- 34 election board shall mail a special absentee ballot for overseas voters.
- 35 (e) The ballot described in subsection (d):
- 36 (1) must be mailed:
- 37 (A) on the day of the receipt of the voter's application; or
- 38 (B) not more than five (5) days after the date of delivery of the
- 39 ballots under section 13(b) of this chapter;
- 40 whichever is later; and
- 41 (2) may not be mailed after the absentee ballots described by
- 42 section 13(a) of this chapter have been delivered to the circuit

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1 court clerk or the clerk's authorized deputy.

2 (f) This subsection applies after December 31, 2005. As required by

3 42 U.S.C. 15481, an election board must establish a voter education

4 program (specific to a paper ballot or optical scan ballot card provided

5 as an absentee ballot under this chapter) to notify a voter of the effect

6 of casting multiple ballots for a single office.

7 (g) This subsection applies after December 31, 2005. As provided

8 by 42 U.S.C. 15481, when an absentee ballot is mailed under this

9 section, the mailing must include:

10 (1) information concerning the effect of casting multiple votes for

11 an office; and

12 (2) instructions on how to correct the ballot before the ballot is

13 cast and counted, including the issuance of replacement ballots.

14 SECTION 5. IC 3-11-10-24, AS AMENDED BY P.L.126-2002,

15 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

16 JULY 1, 2004]: Sec. 24. (a) Except as provided in subsection (b), a

17 voter who satisfies any of the following is entitled to vote by mail:

18 (1) The voter will be absent from the county on election day.

19 (2) The voter will be absent from the precinct of the voter's

20 residence on election day because of service as:

21 (A) a precinct election officer under IC 3-6-6;

22 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

23 (C) a challenger or pollbook holder under IC 3-6-7; or

24 (D) a person employed by an election board to administer the

25 election for which the absentee ballot is requested.

26 (3) The voter will be confined on election day to the voter's

27 residence, to a health care facility, or to a hospital because of an

28 illness or injury.

29 (4) The voter is a voter with disabilities.

30 (5) The voter is an elderly voter.

31 (6) The voter is prevented from voting due to the voter's care of

32 an individual confined to a private residence because of illness or

33 injury.

34 (7) The voter is scheduled to work at the person's regular place of

35 employment during the entire twelve (12) hours that the polls are

36 open.

37 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

38 **(9) The voter on election day will be:**

39 **(A) imprisoned; or**

40 **(B) otherwise subject to lawful detention;**

41 **for a crime for which the voter has been charged but not**

42 **convicted.**

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1 (b) A voter with disabilities who:

2 (1) is unable to make a voting mark on the ballot or sign the
3 absentee ballot secrecy envelope; and

4 (2) requests that the absentee ballot be delivered to an address
5 within Indiana;

6 must vote before an absentee voter board under section 25(b) of this
7 chapter.

8 (c) After a voter has mailed an absentee ballot to the office of the
9 circuit court clerk, the voter may not recast a ballot, except as provided
10 in:

11 (1) section 1.5 of this chapter; or

12 (2) section 33 of this chapter.

13 SECTION 6. IC 3-11-10-25, AS AMENDED BY P.L.209-2003,
14 SECTION 146, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) A voter who votes by
16 absentee ballot because of:

17 (1) illness or injury; **or**

18 (2) caring for a confined person at a private residence; **or**

19 **(3) imprisonment or lawful detention for a crime for which**
20 **the voter has been charged but not convicted;**

21 and who is within the county on election day may vote before an
22 absentee voter board or by mail.

23 (b) If requested by a voter described in subsection (a) or by a voter
24 with disabilities whose precinct is not accessible to voters with
25 disabilities, an absentee voter board shall visit the voter's place of
26 confinement, the residence of the voter with disabilities, or the private
27 residence:

28 (1) during the regular office hours of the circuit court clerk;

29 (2) at a time agreed to by the board and the voter;

30 (3) on any of the twelve (12) days immediately before election
31 day; and

32 (4) only once before an election, unless:

33 (A) the confined voter is unavailable at the time of the board's
34 first visit due to a medical emergency; or

35 (B) the board, in its discretion, decides to make an additional
36 visit.

37 (c) This subsection applies to a voter confined due to illness, **or**
38 injury, **imprisonment, or lawful detention described in subsection**
39 **(a)**. An absentee voter board may not be denied access to the voter's
40 place of confinement if the board is present at the place of confinement
41 at a time:

42 (1) agreed to by the board and the voter; and

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1 (2) during the regular office hours of the circuit court clerk. A
2 person who knowingly violates this subsection commits
3 obstruction or interference with an election officer in the
4 discharge of the officer's duty, a violation of IC 3-14-3-4.

5 (d) The county election board, by unanimous vote of the board's
6 entire membership, may authorize an absentee voter board to visit a
7 voter who is confined due to illness or injury and will be outside of the
8 county on election day in accordance with the procedures set forth in
9 subsection (b).

10 (e) This subsection applies after December 31, 2005. As provided
11 by 42 U.S.C. 15481, a voter casting an absentee ballot under this
12 section must be:

13 (1) permitted to verify in a private and independent manner the
14 votes selected by the voter before the ballot is cast and counted;

15 (2) provided with the opportunity to change the ballot or correct
16 any error in a private and independent manner before the ballot is
17 cast and counted, including the opportunity to receive a
18 replacement ballot if the voter is otherwise unable to change or
19 correct the ballot; and

20 (3) notified before the ballot is cast regarding the effect of casting
21 multiple votes for the office and provided an opportunity to
22 correct the ballot before the ballot is cast and counted.

23 (f) This subsection applies after December 31, 2005. As provided
24 by 42 U.S.C. 15481, when an absentee ballot is provided under this
25 section, the board must also provide the voter with:

26 (1) information concerning the effect of casting multiple votes for
27 an office; and

28 (2) instructions on how to correct the ballot before the ballot is
29 cast and counted, including the issuance of replacement ballots.

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