

HOUSE BILL No. 1178

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-7; IC 3-10-1; IC 3-11; IC 3-11.5-4-16; IC 3-11.7-2-1.

Synopsis: Voter identification. Provides that, before a voter may vote at the polls, the voter must show identification that contains a photograph of the voter. Removes provisions of the law relating to comparison of a voter's signature at the polls with the voter's signature on the registration record. Repeals superseded statutes concerning voter registration and procedures for admittance of a voter to the polls.

Effective: July 1, 2005.

Burton

January 6, 2005, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1178



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 3-7-27-15 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) This section
3 does not apply to a county acting in accordance with ~~section 21 or~~
4 **section** 22 of this chapter. The county voter registration office shall
5 keep all original affidavits or forms of registration in the clerk's or
6 board's office except when the affidavits or forms are in the possession
7 of the precinct election boards for use on election day at the polls. The
8 county voter registration office shall keep any duplicate affidavits or
9 forms at all times in the clerk's or board's office.

10 (b) If the original affidavits or forms of registration have been
11 microfilmed or recorded through a similar electronic process
12 authorized under IC 5, any duplicate affidavits may be:

13 (1) stored in a secure location outside of the office of the clerk or
14 board; or
15 (2) discarded, if a microfilmed or similar electronic record of the
16 duplicate affidavits is stored in a secure location outside of the
17 office of the clerk or board.



1 SECTION 2. IC 3-7-27-22 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) This section
 3 applies before January 1, 2006, to a county whose voter registration
 4 records are maintained on a computerized system. ~~described by section~~
 5 ~~20 of this chapter.~~ After December 31, 2005, this section applies to all
 6 counties.

7 (b) Before January 1, 2006, the county voter registration office may
 8 maintain the original affidavits of registration in a secure location
 9 outside of the county voter registration office if:

10 (1) the county maintains a regularly updated copy of the
 11 computerized record; ~~as described in section 21(b) of this chapter;~~
 12 and

13 (2) the original affidavits are not located in the same location as
 14 the updated copy of the computerized record.

15 After December 31, 2005, the county voter registration office may
 16 maintain the original affidavits of registration in a secure location
 17 outside the county voter registration office.

18 SECTION 3. IC 3-7-29-3 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This subsection applies
 20 before January 1, 2006. When the inspector of a precinct procures the
 21 ballots and other election supplies for an election, the inspector shall
 22 also procure from the county voter registration office:

23 (1) in a county whose registration records are not maintained on
 24 a computerized system, ~~described by IC 3-7-27-20;~~ the duplicate
 25 copy of the registration record; or

26 (2) in a county with a computerized registration system, the
 27 certified copies of the registration record of the precinct with the
 28 information required under section 1 of this chapter;

29 and other necessary registration supplies.

30 (b) This subsection applies after December 31, 2005. When the
 31 inspector of a precinct procures the ballots and other election supplies
 32 for an election, the inspector shall also procure from the county voter
 33 registration office the certified copies of the registration record of the
 34 precinct with the information required under section 1 of this chapter
 35 and other necessary registration supplies.

36 SECTION 4. IC 3-7-33-4.5 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) Except as
 38 provided in subsection (b), this section applies to an individual who:

39 (1) submits an application to register to vote by mail under
 40 IC 3-7-22; and

41 (2) has not previously voted in:

42 (A) a general election in Indiana (or a special election for

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1 federal office in Indiana); or
 2 (B) a general election (or a special election for federal office)
 3 in the county where the individual has submitted an
 4 application under this chapter if a statewide voter registration
 5 system is not operational in accordance with the requirements
 6 of IC 3-7-26 and 42 U.S.C. 15483 on the date the application
 7 is received by the county voter registration office.
 8 (b) This section does not apply to an individual who complies with
 9 the requirements in any of the following:
 10 (1) The individual submits an application to register to vote by
 11 mail under this chapter and includes with that mailing a copy of:
 12 (A) a current and valid photo identification; or
 13 (B) a current utility bill, bank statement, government check,
 14 paycheck, or government document;
 15 that shows the name and residence address of the voter stated on
 16 the voter registration application.
 17 (2) The individual submits an application to register to vote by
 18 mail under this chapter that includes the individual's:
 19 (A) Indiana driver's license number; or
 20 (B) last four (4) digits of the individual's Social Security
 21 number;
 22 and the county voter registration office or election division
 23 matches the information submitted by the applicant with an
 24 existing Indiana identification record bearing the same number,
 25 name, and date of birth set forth in the voter registration
 26 application.
 27 (3) The individual is an absent uniformed services voter or
 28 overseas voter.
 29 (4) The individual is entitled to vote other than in person under
 30 the federal Voting Accessibility for the Elderly and Handicapped
 31 Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)) due to a determination by
 32 the election division that a permanent or temporarily accessible
 33 polling place cannot be provided for the individual.
 34 (5) The individual is entitled to vote other than in person under
 35 any other federal law.
 36 (c) When a county voter registration office receives a voter
 37 registration application by mail, the office shall determine whether the
 38 applicant is subject to the requirements to provide additional
 39 documentation under this section and 42 U.S.C. 15483.
 40 (d) As required by 42 U.S.C. 15483, a county voter registration
 41 office shall administer the requirements of this section in a uniform and
 42 nondiscriminatory manner.

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1 (e) If the county voter registration office determines that the
2 applicant:

3 (1) is not required to submit additional documentation under this
4 section; or

5 (2) has provided the documentation required under this section;
6 the county voter registration office shall process the application in
7 accordance with section 5 of this chapter.

8 (f) If the county voter registration office determines that the
9 applicant is required to submit additional documentation under this
10 section and 42 U.S.C. 15483, the office shall process the application
11 under section 5 of this chapter and, if the applicant is otherwise eligible
12 to vote, add the information concerning this documentation to the
13 voter's computerized registration entry. ~~under IC 3-7-27-20(c).~~

14 (g) The county voter registration office shall remove the notation
15 described in subsection (f) after the voter votes in an election for a
16 federal office.

17 SECTION 5. IC 3-7-41-2 IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2005]: Sec. 2. The statement described in
19 section 1 of this chapter may be filed with the county voter registration
20 office at any time. A voter who wishes to indicate that the voter's name
21 has changed may also write the necessary information concerning the
22 name change on the poll list under ~~IC 3-11-8-25~~ **IC 3-11-8-25.1** before
23 the person receives a ballot. The person may then vote if otherwise
24 qualified.

25 SECTION 6. IC 3-10-1-7.1 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.1. (a) This section
27 applies after December 31, 2005.

28 (b) Each county election board shall furnish the inspector of each
29 precinct for use on primary election day a certified copy under
30 IC 3-7-29 of the list of all voters registered to vote in the precinct.

31 ~~(c) The county voter registration office may also provide the~~
32 ~~inspector of each precinct in the county a certified photocopy of the~~
33 ~~signature on the affidavit or form of registration of each voter of the~~
34 ~~precinct for the comparison of signatures under section 24.6 of this~~
35 ~~chapter.~~

36 ~~(d)~~ (c) If the name of a person offering to vote at the primary is in
37 the registration record or listed in the certified copy prepared for the
38 precinct, it is sufficient evidence of the person's right to vote unless the
39 person is challenged.

40 SECTION 7. IC 3-10-1-24 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) A voter who
42 desires to vote **at a primary election** must **do both of the following:**

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- 1 (1) Give the voter's name and political party to the poll clerks of
- 2 the precinct on primary election day.
- 3 **(2) Show the poll clerks an identification of the voter that**
- 4 **contains a photograph of the voter.**
- 5 **(b)** The poll clerks shall require the voter to write the following on
- 6 the poll list:
- 7 (1) The voter's name.
- 8 (2) Except as provided in subsection ~~(d)~~, **(e)**, the voter's current
- 9 residence address.
- 10 (3) The name of the voter's party.
- 11 ~~(b)~~ **(c)** The poll clerks shall:
- 12 (1) ask the voter to provide or update the voter's voter
- 13 identification number;
- 14 (2) tell the voter the number the voter may use as a voter
- 15 identification number; and
- 16 (3) explain to the voter that the voter is not required to provide a
- 17 voter identification number at the polls.
- 18 ~~(c)~~ **(d)** If the voter is unable to sign the voter's name, the voter must
- 19 sign the poll list by mark, which must be witnessed by one (1) of the
- 20 poll clerks or assistant poll clerks acting under IC 3-6-6, who shall
- 21 place the poll clerk's or assistant poll clerk's initials after or under the
- 22 mark.
- 23 ~~(d)~~ **(e)** After December 31, 2005, each line on a poll list sheet
- 24 provided to take a voter's current residence address must include a box
- 25 under the heading "Address Unchanged" so that a voter whose
- 26 residence address shown on the poll list is the voter's current residence
- 27 address may check the box instead of writing the voter's current
- 28 residence address on the poll list.
- 29 SECTION 8. IC 3-10-1-24.6 IS AMENDED TO READ AS
- 30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24.6. (a) This section
- 31 applies after December 31, 2005.
- 32 ~~(b)~~ **In case of doubt concerning a voter's identity, the precinct**
- 33 **election board shall compare the voter's signature with the signature on**
- 34 **the affidavit of registration or any certified copy of the signature**
- 35 **provided under section 7 of this chapter. If the board determines that**
- 36 **the voter's signature is authentic, the voter may then vote.**
- 37 ~~(c)~~ **(b)** If either poll clerk doubts the voter's identity, **following the**
- 38 **comparison of the signatures,** the poll clerk shall challenge the voter in
- 39 the manner prescribed by IC 3-11-8. If the poll clerk does not execute
- 40 a challenger's affidavit under ~~IC 3-11-8-21~~ **IC 3-11-8-20** or if the voter
- 41 **executes a challenged voter's affidavit under IC 3-11-8-22 is satisfied,**
- 42 the voter may then vote.

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1 SECTION 9. IC 3-11-8-19 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. Voters shall
 3 approach and enter the chute in the order in which they appear for the
 4 purpose of voting. A voter shall immediately announce the voter's full
 5 and true name to the challengers. **A challenger may challenge a voter
 6 under section 20 of this chapter.**

7 SECTION 10. IC 3-11-8-20 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. If a voter offering
 9 to vote is challenged by a challenger or by a member of the precinct
 10 ~~election board~~, **under this chapter**, the person challenging the voter
 11 shall reduce the challenge to affidavit form, setting forth succinctly the
 12 reasons for the challenge.

13 SECTION 11. IC 3-11-8-22 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) A voter
 15 challenged under section 20 of this chapter may vote if **all the
 16 following are satisfied:**

17 (1) The voter makes an affidavit in writing under section 23 of
 18 this chapter. ~~and~~

19 (2) Either of the following applies:

20 ~~(1)~~ (A) The voter's name appears on the registration list.

21 ~~(2)~~ (B) The voter does one (1) of the following:

22 ~~(A)~~ (i) Produces a certificate of error issued by a registration
 23 official of the county in accordance with IC 3-7-48 showing
 24 that the voter is registered in the precinct where the voter
 25 resides and offers to vote.

26 ~~(B)~~ (ii) Produces an affidavit executed under IC 3-10-10 or
 27 IC 3-10-11 if the voter executed an affidavit under those
 28 provisions.

29 ~~(C)~~ (iii) Makes an oral or a written affirmation under
 30 IC 3-10-12.

31 (3) **A majority of the precinct election board determines that
 32 the voter is the individual who appears on the identification
 33 produced under section 25.1 of this chapter.**

34 (b) ~~After December 31, 2003~~, A voter challenged under section 20
 35 of this chapter:

36 (1) whose name does not appear on the registration list; and

37 (2) who is not permitted to cast a vote under IC 3-7-48-1,
 38 IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or
 39 IC 3-10-12;

40 is entitled to cast a provisional ballot under IC 3-11.7 if the voter
 41 makes an affidavit in writing that the voter is a legal voter of the
 42 precinct **and a majority of the precinct election board determines**

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1 **that the voter is the individual who appears on the identification**
 2 **produced under section 25.1 of this chapter.**

3 SECTION 12. IC 3-11-8-25.1 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.1. ~~(a) This section~~
 5 ~~applies after December 31, 2005.~~

6 ~~(b)~~ **(a)** After a voter has passed the challengers or has been sworn
 7 in, the voter shall be admitted to the polls. Upon entering the polls, the
 8 voter shall **do both of the following:**

9 **(1)** Announce the voter's name to the poll clerks or assistant poll
 10 clerks.

11 **(2) Show the poll clerks an identification of the voter that**
 12 **contains a photograph of the voter.**

13 **(b)** A poll clerk, an assistant poll clerk, or a member of the precinct
 14 election board shall require the voter to write the following on the poll
 15 list:

16 (1) The voter's name.

17 (2) Except as provided in subsection (f), the voter's current
 18 residence address.

19 (c) The poll clerk, an assistant poll clerk, or a member of the
 20 precinct election board shall:

21 (1) ask the voter to provide or update the voter's voter
 22 identification number;

23 (2) tell the voter the number the voter may use as a voter
 24 identification number; and

25 (3) explain to the voter that the voter is not required to provide or
 26 update a voter identification number at the polls.

27 ~~(d) In case of doubt concerning a voter's identity, the precinct~~
 28 ~~election board shall compare the voter's signature with the signature on~~
 29 ~~the affidavit of registration or any certified copy of the signature~~
 30 ~~provided under IC 3-7-29. If the board determines that the voter's~~
 31 ~~signature is authentic, the voter may then vote.~~

32 **(d)** If either poll clerk doubts the voter's identity, ~~following~~
 33 ~~comparison of the signatures~~, the poll clerk shall challenge the voter in
 34 the manner prescribed by ~~section 21~~ **section 20** of this chapter. **A poll**
 35 **clerk may not challenge a voter under this subsection if:**

36 **(1) the voter was challenged by a challenger under this**
 37 **chapter; and**

38 **(2) section 22 of this chapter has been satisfied.**

39 **However, a poll clerk who doubts the identity of the voter may**
 40 **make a notation in the poll book that the poll clerk doubts the**
 41 **identity of the voter.**

42 (e) If, in a precinct governed by subsection (c):

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- 1 (1) the poll clerk does not execute a challenger's affidavit; or
 2 (2) ~~the voter executes a challenged voter's affidavit under section~~
 3 22 of this chapter ~~or executed the affidavit before signing the poll~~
 4 ~~list;~~ **has been satisfied;**

5 the voter may then vote.

6 (f) Each line on a poll list sheet provided to take a voter's current
 7 address must include a box under the heading "Address Unchanged"
 8 so that a voter whose residence address shown on the poll list is the
 9 voter's current residence address may check the box instead of writing
 10 the voter's current residence address on the poll list.

11 SECTION 13. IC 3-11-8-25.5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. If an individual
 13 signs the individual's name and either:

- 14 (1) signs the individual's address; or
 15 (2) after December 31, 2005, checks the "Address Unchanged"
 16 box;

17 on the poll list under ~~section 25~~ **section 25.1** of this chapter and then
 18 leaves the polls without casting a ballot or after casting a provisional
 19 ballot, the voter may not be permitted to reenter the polls to cast a
 20 ballot at the election.

21 SECTION 14. IC 3-11-8-27 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) If a member of
 23 a precinct election board is not satisfied that a person who offers to
 24 vote is the person who the person represents the person to be, the
 25 member may challenge the person ~~and the~~ **under section 20 of this**
 26 **chapter.**

27 (b) **A member of the precinct election board may not challenge**
 28 **a voter under subsection (a):**

- 29 (1) **if the voter was challenged by a challenger or a poll clerk**
 30 **under this chapter; and**
 31 (2) **section 22 of this chapter has been satisfied.**

32 **However, a member of the precinct election board who doubts the**
 33 **identity of the voter may make a notation in the poll book that the**
 34 **member doubts the identity of the voter.**

35 (c) A person **challenged under this section** may vote only if ~~the~~
 36 ~~person signs the affidavit required to be signed by voters who are~~
 37 ~~challenged under section 20~~ **section 22** of this chapter **is satisfied.**

38 SECTION 15. IC 3-11-8-27.5 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27.5. (a) ~~This section~~
 40 ~~applies after December 31, 2003.~~

41 (b) In accordance with 42 U.S.C. 15482, a voter challenged under
 42 section 27 of this chapter is entitled to cast a provisional ballot under

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1 IC 3-11.7 after executing the affidavit under section 23 of this chapter.
2 SECTION 16. IC 3-11-8-29 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. A precinct election
4 board may not keep a poll list other than the poll list required by
5 ~~section 25~~ **section 25.1** of this chapter.

6 SECTION 17. IC 3-11-10-22 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. If an absentee ballot
8 is challenged under section 21 of this chapter, the absentee voter's
9 application for an absentee ballot shall be considered as the affidavit
10 required to be made by a voter when challenged at the polls while
11 voting in person. ~~In all other respects~~ The challenge procedure is the
12 same as though the ballot was cast by the voter in person. If a proper
13 affidavit is made that would entitle the absentee voter to vote if the
14 absentee voter had personally appeared, then the absentee ballot shall
15 be placed in the ballot box. **However, an identification of the voter
16 containing a photograph of the voter is not required to be
17 produced.**

18 SECTION 18. IC 3-11.5-4-16 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) If an absentee
20 ballot is challenged under section 15 of this chapter, the absentee
21 voter's application for an absentee ballot shall be considered as the
22 affidavit required to be made by a voter when challenged at the polls
23 while voting in person. ~~In all other respects~~, The challenge procedure
24 is the same as though the ballot was cast by the voter in person.
25 **However, an identification of the voter containing a photograph of
26 the voter is not required to be produced.**

27 (b) If a proper affidavit by a qualified person in the form required by
28 IC 3-11-8-22 is made that would entitle the absentee voter to vote if the
29 absentee voter had personally appeared, the couriers shall return the
30 affidavit to the county election board in the same envelope as the
31 certificate returned under section 9 of this chapter.

32 (c) The absentee ballot cast by the challenged voter shall be counted
33 if the county election board makes the findings required under section
34 11 of this chapter.

35 SECTION 19. IC 3-11.7-2-1 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) As provided by
37 42 U.S.C. 15482, this section applies to the following individuals:

- 38 (1) An individual:
39 (A) whose name does not appear on the registration list; and
40 (B) who is not permitted to vote under IC 3-7-48-1,
41 IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or
42 IC 3-10-12.

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1 (2) An individual described by IC 3-10-1-10.5 ~~IC 3-11-8-23.5~~, or
 2 IC 3-11-8-27.5 who is challenged as not eligible to vote.
 3 (3) An individual who seeks to vote in an election as a result of a
 4 court order (or any other order) extending the time established for
 5 closing the polls under IC 3-11-8-8.
 6 (b) ~~This subsection applies after December 31, 2003~~. As required
 7 by 42 U.S.C. 15483, a voter who has registered to vote but has not:
 8 (1) presented identification required under 42 U.S.C. 15483 to the
 9 poll clerk before voting in person under ~~IC 3-11-8-25~~;
 10 **IC 3-11-8-25.1**; or
 11 (2) filed a copy of the identification required under 42 U.S.C.
 12 15483 to the county voter registration office before the voter's
 13 absentee ballot is cast;
 14 is entitled to vote a provisional ballot under this article.
 15 (c) A precinct election officer shall inform an individual described
 16 by subsection (a)(1) or (a)(2) that the individual may cast a provisional
 17 ballot if the individual:
 18 (1) is eligible to vote under IC 3-7-13-1;
 19 (2) submitted a voter registration application during the
 20 registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if
 21 the voter registered under that section); ~~and~~
 22 (3) executes an affidavit described in IC 3-10-1-9 or
 23 IC 3-11-8-23; ~~and~~
 24 **(4) a majority of the precinct election board determines that**
 25 **the voter is the individual who appears on the identification**
 26 **produced under IC 3-11-8-25.1.**
 27 (d) A precinct election officer shall inform an individual described
 28 by subsection (a)(3) that the individual may cast a provisional ballot.
 29 SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE
 30 JULY 1, 2005]: IC 3-7-27-20; IC 3-7-27-21; IC 3-7-29-4;
 31 IC 3-11-8-23.5; IC 3-11-8-25; IC 3-11-8-25.2.

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