



February 6, 2009

HOUSE BILL No. 1099

DIGEST OF HB 1099 (Updated February 4, 2009 6:19 pm - DI 75)

Citations Affected: IC 3-5; IC 3-11.

Synopsis: Various election matters. Provides that an identification document issued by the Department of Defense, a branch of the uniformed services, the Merchant Marine, or the National Guard that has no expiration date or an indefinite expiration date is an acceptable proof of identification for voting. Provides that identification issued by an approved Indiana postsecondary educational institution that has no expiration date or an indefinite expiration date is acceptable proof of identification to vote. Provides that a voter casting an absentee ballot before an absentee voter board in the office of the circuit court clerk or at a satellite office is entitled to receive assistance in casting a ballot if the voter is a voter with disabilities or is unable to read or write English. Establishes a procedure at the time for closing the polls or an office where voting is occurring to identify the voters who are voting or waiting to vote and to permit those voters to finish the process of voting.

Effective: July 1, 2009.

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January 8, 2009, read first time and referred to Committee on Elections and Apportionment.
February 5, 2009, amended, reported — Do Pass.

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HB 1099—LS 6516/DI 102+



February 6, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1099

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 3-5-2-40.5, AS ADDED BY P.L.109-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 40.5. **(a) Except as provided in subsection (b)**
4 **or (c), "proof of identification" refers to a document that satisfies all**
5 **the following:**
- 6 (1) The document shows the name of the individual to whom the
7 document was issued, and the name conforms to the name in the
8 individual's voter registration record.
 - 9 (2) The document shows a photograph of the individual to whom
10 the document was issued.
 - 11 (3) The document includes an expiration date, and the document:
12 (A) is not expired; or
13 (B) expired after the date of the most recent general election.
 - 14 (4) The document was issued by the United States or the state of
15 Indiana.
- 16 **(b) Notwithstanding subsection (a)(3), a document issued by the**
17 **United States Department of Defense, a branch of the uniformed**

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services, the Merchant Marine, or the Indiana National Guard that:

- (1) otherwise complies with the requirements of subsection (a); and
- (2) has no expiration date or states that the document has an indefinite expiration date;

is sufficient proof of identification for purposes of this title.

(c) Notwithstanding subsection (a)(3), a document issued by an approved postsecondary educational institution (as defined in IC 21-7-13-6(a)) that:

- (1) otherwise complies with the requirements of subsection (a); and
- (2) has no expiration date or states that the document has an indefinite expiration date;

is sufficient proof of identification for purposes of this title.

SECTION 2. IC 3-11-4-3, AS AMENDED BY P.L.103-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Except as provided in section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

- (1) Noon on election day if the voter registers to vote under IC 3-7-36-14.
- (2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk or is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by fax under section 6(h) of this chapter.
- (3) Noon on the day before election day if:
 - (A) the application is a mailed, transmitted by fax, or hand delivered application from a confined voter or voter caring for a confined person; and
 - (B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.
- (4) Midnight on the eighth day before election day if the application:
 - (A) is a mailed application; or
 - (B) was transmitted by fax;
 from other voters.

- (5) The end of the time permitted by IC 3-11-10-26(k) or IC 3-11-10-26.3(g).

SECTION 3. IC 3-11-9-1 IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to:
 2 (1) each precinct; and ~~to~~
 3 (2) absentee voting, **including the casting of an absentee ballot**
 4 **before an absentee voter board:**
 5 (A) in the office of the:
 6 (i) circuit court clerk; or
 7 (ii) board of elections and registration in a county
 8 subject to IC 3-6-5.2 or IC 3-6-5.4; or
 9 (B) at a satellite office established under IC 3-11-10-26.3.
 10 SECTION 4. IC 3-11-10-26, AS AMENDED BY P.L.164-2006,
 11 SECTION 109, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) As an alternative to voting
 13 by mail, a voter is entitled to cast an absentee ballot before an absentee
 14 voter board:
 15 (1) in the office of the circuit court clerk (or board of elections
 16 and registration in a county subject to IC 3-6-5.2); or
 17 (2) at a satellite office established under section 26.3 of this
 18 chapter.
 19 (b) The voter must:
 20 (1) sign an application on the form prescribed by the commission
 21 under IC 3-11-4-5.1; and
 22 (2) provide proof of identification;
 23 before being permitted to vote. **Except as provided in subsection (k),**
 24 the application must be received by the circuit court clerk not later than
 25 the time prescribed by IC 3-11-4-3.
 26 (c) **Subject to subsection (k),** the voter may vote before the board
 27 not more than twenty-nine (29) days nor later than noon on the day
 28 before election day.
 29 (d) **Subject to subsection (k),** an absent uniformed services voter
 30 who is eligible to vote by absentee ballot in the circuit court clerk's
 31 office under IC 3-7-36-14 may vote before the board not earlier than
 32 twenty-nine (29) days before the election and not later than noon on
 33 election day. If a voter described by this subsection wishes to cast an
 34 absentee ballot during the period beginning at noon on the day before
 35 election day and ending at noon on election day, the county election
 36 board or absentee voter board may receive and process the ballot at a
 37 location designated by resolution of the county election board.
 38 (e) The absentee voter board in the office of the circuit court clerk
 39 must permit voters to cast absentee ballots under this section for at
 40 least seven (7) hours on each of the two (2) Saturdays preceding
 41 election day.
 42 (f) Notwithstanding subsection (e), in a county with a population of

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1 less than twenty thousand (20,000), the absentee voter board in the
 2 office of the circuit court clerk, with the approval of the county election
 3 board, may reduce the number of hours available to cast absentee
 4 ballots under this section to a minimum of four (4) hours on each of the
 5 two (2) Saturdays preceding election day.

6 (g) As provided by 42 U.S.C. 15481, a voter casting an absentee
 7 ballot under this section must be:

- 8 (1) permitted to verify in a private and independent manner the
 9 votes selected by the voter before the ballot is cast and counted;
 10 (2) provided with the opportunity to change the ballot or correct
 11 any error in a private and independent manner before the ballot is
 12 cast and counted, including the opportunity to receive a
 13 replacement ballot if the voter is otherwise unable to change or
 14 correct the ballot; and
 15 (3) notified before the ballot is cast regarding the effect of casting
 16 multiple votes for the office and provided an opportunity to
 17 correct the ballot before the ballot is cast and counted.

18 (h) As provided by 42 U.S.C. 15481, when an absentee ballot is
 19 provided under this section, the board must also provide the voter with:

- 20 (1) information concerning the effect of casting multiple votes for
 21 an office; and
 22 (2) instructions on how to correct the ballot before the ballot is
 23 cast and counted, including the issuance of replacement ballots.

24 (i) If:

- 25 (1) the voter is unable or declines to present the proof of
 26 identification; or
 27 (2) a member of the board determines that the proof of
 28 identification provided by the voter does not qualify as proof of
 29 identification under IC 3-5-2-40.5;

30 the voter shall be permitted to cast an absentee ballot and the voter's
 31 absentee ballot shall be treated as a provisional ballot.

32 **(j) A voter casting an absentee ballot under this section is**
 33 **entitled to receive assistance in casting the voter's ballot in**
 34 **accordance with IC 3-11-9.**

35 **(k) Notwithstanding subsection (c) or (d), when the time arrives**
 36 **that has been designated as the time at which voting under this**
 37 **section ends, the absentee voter board shall do the following:**

38 **(1) Permit all voters who:**

39 **(A) are in the act of voting; or**

40 **(B) have begun the procedure for casting an absentee**
 41 **ballot under this section but who have not voted;**

42 **to vote.**

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(2) Require all voters who are waiting to vote but have not begun the procedure for casting an absentee ballot under this section to line up in single file. One (1) member of the board shall do the following:

(A) Determine who the last voter is in the line. The board member may not determine that a voter is not in line only because the voter is located outside the building in which voting is occurring.

(B) Stand directly behind the voter determined under clause (A).

Another member of the board shall, beginning with the voter determined under clause (A), record the names of the voters in the line. These voters may vote under this section unless otherwise prevented according to law.

SECTION 5. IC 3-11-10-26.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26.3. (a) A county election board may adopt a resolution to authorize the circuit court clerk to establish satellite offices in the county where voters may cast absentee ballots before an absentee voter board.

(b) To be adopted under this section, a resolution must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must do the following:

- (1) State the locations of the satellite offices.
- (2) State the hours at which absentee voting may occur at the satellite offices.

(d) The resolution may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the procedure for casting an absentee ballot at a satellite office must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk.

(f) A voter at a satellite office is entitled to receive assistance in casting the voter's ballot in accordance with IC 3-11-9.

(g) Notwithstanding a resolution adopted under this section, when the time arrives that has been designated as the time at which voting under this section ends, the absentee voter board shall do the following:

- (1) Permit all voters who:**
 - (A) are in the act of voting; or**
 - (B) have begun the procedure for casting an absentee ballot under this section but who have not voted; to vote.**

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1 **(2) Require all voters who are waiting to vote but have not**
2 **begun the procedure for casting an absentee ballot under this**
3 **section to line up in single file. One (1) member of the board**
4 **shall do the following:**
5 **(A) Determine who the last voter is in the line. The board**
6 **member may not determine that a voter is not in line only**
7 **because the voter is located outside the building in which**
8 **voting is occurring.**
9 **(B) Stand directly behind the voter determined under**
10 **clause (A).**
11 **Another member of the board shall, beginning with the voter**
12 **determined under clause (A), record the names of the voters**
13 **in the line. These voters may vote under this section unless**
14 **otherwise prevented according to law.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1099, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-40.5, AS ADDED BY P.L.109-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 40.5. **(a) Except as provided in subsection (b) or (c), "proof of identification" refers to a document that satisfies all the following:**

- (1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.
- (2) The document shows a photograph of the individual to whom the document was issued.
- (3) The document includes an expiration date, and the document:
 - (A) is not expired; or
 - (B) expired after the date of the most recent general election.
- (4) The document was issued by the United States or the state of Indiana.

(b) Notwithstanding subsection (a)(3), a document issued by the United States Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana National Guard that:

- (1) otherwise complies with the requirements of subsection (a); and**
- (2) has no expiration date or states that the document has an indefinite expiration date;**

is sufficient proof of identification for purposes of this title.

(c) Notwithstanding subsection (a)(3), a document issued by an approved postsecondary educational institution (as defined in IC 21-7-13-6(a)) that:

- (1) otherwise complies with the requirements of subsection (a); and**
- (2) has no expiration date or states that the document has an indefinite expiration date;**

is sufficient proof of identification for purposes of this title."

Page 2, delete lines 1 through 6, begin a new paragraph and insert:

"SECTION 2. IC 3-11-4-3, AS AMENDED BY P.L.103-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Except as provided in section 6 of this chapter,

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an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

- (1) Noon on election day if the voter registers to vote under IC 3-7-36-14.
- (2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk or is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by fax under section 6(h) of this chapter.
- (3) Noon on the day before election day if:
 - (A) the application is a mailed, transmitted by fax, or hand delivered application from a confined voter or voter caring for a confined person; and
 - (B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.
- (4) Midnight on the eighth day before election day if the application:
 - (A) is a mailed application; or
 - (B) was transmitted by fax;
 from other voters.

(5) The end of the time permitted by IC 3-11-10-26(k) or IC 3-11-10-26.3(g)."

Page 2, line 15, after "IC 3-6-5.2" insert "**or IC 3-6-5.4**".

Page 3, delete line 42, begin a new paragraph and insert:

"(k) Notwithstanding subsection (c) or (d), when the time arrives that has been designated as the time at which voting under this section ends, the absentee voter board shall do the following:

- (1) Permit all voters who:**
 - (A) are in the act of voting; or**
 - (B) have begun the procedure for casting an absentee ballot under this section but who have not voted;**
 to vote.
- (2) Require all voters who are waiting to vote but have not begun the procedure for casting an absentee ballot under this section to line up in single file. One (1) member of the board shall do the following:**
 - (A) Determine who the last voter is in the line. The board member may not determine that a voter is not in line only because the voter is located outside the building in which voting is occurring.**
 - (B) Stand directly behind the voter determined under**

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clause (A).

Another member of the board shall, beginning with the voter determined under clause (A), record the names of the voters in the line. These voters may vote under this section unless otherwise prevented according to law."

Page 4, delete lines 1 through 10.

Page 4, delete lines 30 through 41, begin a new paragraph and insert:

"(g) Notwithstanding a resolution adopted under this section, when the time arrives that has been designated as the time at which voting under this section ends, the absentee voter board shall do the following:

(1) Permit all voters who:

(A) are in the act of voting; or

(B) have begun the procedure for casting an absentee ballot under this section but who have not voted;

to vote.

(2) Require all voters who are waiting to vote but have not begun the procedure for casting an absentee ballot under this section to line up in single file. One (1) member of the board shall do the following:

(A) Determine who the last voter is in the line. The board member may not determine that a voter is not in line only because the voter is located outside the building in which voting is occurring.

(B) Stand directly behind the voter determined under clause (A).

Another member of the board shall, beginning with the voter determined under clause (A), record the names of the voters in the line. These voters may vote under this section unless otherwise prevented according to law."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1099 as introduced.)

BATTLES, Chair

Committee Vote: yeas 6, nays 3.

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