



February 20, 2009

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## HOUSE BILL No. 1509

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DIGEST OF HB 1509 (Updated February 18, 2009 6:26 pm - DI 75)

**Citations Affected:** IC 3-11.

**Synopsis:** Various election law matters. Permits a voter who is qualified to vote in person to vote by absentee ballot. Removes all other qualifications for a voter to vote by absentee ballot except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.) Repeals the voter center statute.

**Effective:** Upon passage; July 1, 2009.

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January 14, 2009, read first time and referred to Committee on Elections and Apportionment.  
February 19, 2009, amended, reported — Do Pass.

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HB 1509—LS 7145/DI 75+



February 20, 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. 1509



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 3-11-4-1 IS AMENDED TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A voter who is otherwise  
 3 qualified to vote in person is entitled to vote by absentee ballot: ~~Except~~  
 4 **(1) by mail;**  
 5 **(2) before an absentee voter board** as ~~otherwise~~ provided in this  
 6 article; ~~a voter voting by absentee ballot must vote~~  
 7 **(3) in the office of the circuit court clerk (or board of elections**  
 8 **and registration in a county subject to IC 3-6-5.2); or**  
 9 **(4) at a satellite office established 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 has been hospitalized or suffered an injury following the final  
 14 date and hour for applying for an absentee ballot that would prevent the  
 15 person from voting in person at the polls.  
 16 (c) The commission, by unanimous vote of its entire membership,  
 17 may authorize a person who is otherwise qualified to vote in person to

HB 1509—LS 7145/DI 75+



1 vote by absentee ballot if the commission determines that an  
 2 emergency prevents the person from voting in person at a polling place.  
 3 (d) The absentee ballots used in subsection (b) or (c) must be the  
 4 same official absentee ballots as described in section 12 and 13 of this  
 5 chapter. Taking into consideration the amount of time remaining before  
 6 the election, the commission shall determine whether the absentee  
 7 ballots are transmitted to and from the voter by mail or personally  
 8 delivered. An absentee ballot that is personally delivered shall comply  
 9 with the requirements in sections 19, 20, and 21 of this chapter.  
 10 SECTION 2. IC 3-11-4-2, AS AMENDED BY P.L.103-2005,  
 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2009]: Sec. 2. (a) A voter who wants to vote by absentee  
 13 ballot must apply to the county election board for an official absentee  
 14 ballot. Except as provided in subsection (b), the voter must sign the  
 15 absentee ballot application.  
 16 (b) If a voter with disabilities is unable to sign the absentee ballot  
 17 application and the voter has not designated an individual to serve as  
 18 attorney in fact for the voter, the county election board may designate  
 19 an individual to sign the application on behalf of the voter. If an  
 20 individual applies for an absentee ballot as the properly authorized  
 21 attorney in fact for a voter, the attorney in fact must attach a copy of the  
 22 power of attorney to the application.  
 23 (c) A person may provide an individual with an application for an  
 24 absentee ballot with the following information already printed or  
 25 otherwise set forth on the application when provided to the individual:  
 26 (1) The name of the individual.  
 27 (2) The voter registration address of the individual.  
 28 (3) The mailing address of the individual.  
 29 (4) The date of birth of the individual.  
 30 (5) The voter identification number of the individual.  
 31 (d) A person may not provide an individual with an application for  
 32 an absentee ballot with the following information already printed or  
 33 otherwise set forth on the application when provided to the individual:  
 34 (1) The address to which the absentee ballot would be mailed, if  
 35 different from the voter registration address of the individual.  
 36 (2) In a primary election, the major political party ballot requested  
 37 by the individual.  
 38 (3) In a primary or general election, the types of absentee ballots  
 39 requested by the individual.  
 40 ~~(4) The reason why the individual is entitled to vote an absentee~~  
 41 ~~ballot:~~  
 42 ~~(A) by mail; or~~

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1           (~~B~~) before an absentee voter board (other than an absentee  
 2           voter board located in the office of the circuit court clerk or a  
 3           satellite office);  
 4           in accordance with ~~IC 3-11-4-18; IC 3-11-10-24; or~~  
 5           ~~IC 3-11-10-25.~~

6           (e) If the county election board determines that an absentee ballot  
 7           application does not comply with subsection (d), the board shall deny  
 8           the application under section 17.5 of this chapter.

9           (f) A person who assists an individual in completing any  
 10          information described in subsection (d) on an absentee ballot  
 11          application shall state under the penalties for perjury the following  
 12          information on the application:

- 13           (1) The full name, residence and mailing address, and daytime  
 14           and evening telephone numbers (if any) of the person providing  
 15           the assistance.
- 16           (2) The date this assistance was provided.
- 17           (3) That the person providing the assistance has complied with  
 18           Indiana laws governing the submission of absentee ballot  
 19           applications.
- 20           (4) That the person has no knowledge or reason to believe that the  
 21           individual submitting the application:  
 22           (A) is ineligible to vote or to cast an absentee ballot; or  
 23           (B) did not properly complete and sign the application.

24          (g) This subsection does not apply to an employee of the United  
 25          States Postal Service or a bonded courier company acting in the  
 26          individual's capacity as an employee of the United States Postal Service  
 27          or a bonded courier company. A person who receives a completed  
 28          absentee ballot application from the individual who has applied for the  
 29          absentee ballot shall file the application with the appropriate county  
 30          election board not later than:

- 31           (1) noon seven (7) days after the person receives the application;  
 32           or
- 33           (2) the deadline set by Indiana law for filing the application with  
 34           the board;

35          whichever occurs first.

36          (h) This subsection does not apply to an employee of the United  
 37          States Postal Service or a bonded courier company acting in the  
 38          individual's capacity as an employee of the United States Postal Service  
 39          or a bonded courier company. A person filing an absentee ballot  
 40          application, other than the person's own absentee ballot application,  
 41          must sign an affidavit at the time of filing the application. The affidavit  
 42          must be in a form prescribed by the commission. The form must

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1 include the following:

2 (1) A statement of the full name, residence and mailing address,

3 and daytime and evening telephone numbers (if any) of the person

4 submitting the application.

5 (2) A statement that the person filing the affidavit has complied

6 with Indiana laws governing the submission of absentee ballot

7 applications.

8 (3) A statement that the person has no knowledge or reason to

9 believe that the individual whose application is to be filed:

10 (A) is ineligible to vote or to cast an absentee ballot; or

11 (B) did not properly complete and sign the application.

12 (4) A statement that the person is executing the affidavit under the

13 penalties of perjury.

14 (5) A statement setting forth the penalties for perjury.

15 (i) The county election board shall record the date and time of the

16 filing of the affidavit.

17 SECTION 3. IC 3-11-4-18, AS AMENDED BY P.L.164-2006,

18 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

19 JULY 1, 2009]: Sec. 18. (a) ~~If a voter satisfies any of the qualifications~~

20 ~~described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot~~

21 ~~by mail;~~ The county election board shall, at the request of the voter,

22 mail the official ballot, postage fully prepaid, to the voter at the address

23 stated in the application.

24 (b) If the county election board mails an absentee ballot to a voter

25 required to file additional documentation with the county voter

26 registration office before voting by absentee ballot under this chapter,

27 the board shall include a notice to the voter in the envelope mailed to

28 the voter under section 20 of this chapter. The notice must inform the

29 voter that the voter must file the additional documentation required

30 under IC 3-7-33-4.5 with the county voter registration office not later

31 than noon on election day for the absentee ballot to be counted as an

32 absentee ballot, and that, if the documentation required under

33 IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the

34 ballot will be processed as a provisional ballot. The commission shall

35 prescribe the form of this notice under IC 3-5-4-8.

36 (c) Except as provided in section 18.5 of this chapter, the ballot

37 shall be mailed:

38 (1) on the day of the receipt of the voter's application; or

39 (2) not more than five (5) days after the date of delivery of the

40 ballots under section 15 of this chapter;

41 whichever is later.

42 (d) In addition to the ballot mailed under subsection (c), the county

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1 election board shall mail a special absentee ballot for overseas voters.  
 2 (e) Except as provided in section 18.5 of this chapter, the ballot  
 3 described in subsection (d):  
 4 (1) must be mailed:  
 5 (A) on the day of the receipt of the voter's application; or  
 6 (B) not more than five (5) days after the latest date for delivery  
 7 of the ballots under section 13(b) of this chapter applicable to  
 8 that election;  
 9 whichever is later; and  
 10 (2) may not be mailed after the absentee ballots described by  
 11 section 13(a) of this chapter have been delivered to the circuit  
 12 court clerk or the clerk's authorized deputy.  
 13 (f) As required by 42 U.S.C. 15481, an election board shall establish  
 14 a voter education program (specific to a paper ballot or optical scan  
 15 ballot card provided as an absentee ballot under this chapter) to notify  
 16 a voter of the effect of casting multiple votes for a single office.  
 17 (g) As provided by 42 U.S.C. 15481, when an absentee ballot is  
 18 mailed under this section, the mailing must include:  
 19 (1) information concerning the effect of casting multiple votes for  
 20 an office; and  
 21 (2) instructions on how to correct the ballot before the ballot is  
 22 cast and counted, including the issuance of replacement ballots.  
 23 SECTION 4. IC 3-11-10-24, AS AMENDED BY P.L.103-2005,  
 24 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2009]: Sec. 24. (a) Except as provided in subsection (b), a  
 26 voter who satisfies any of the following is entitled to vote by mail.  
 27 (1) The voter has a specific, reasonable expectation of being  
 28 absent from the county on election day during the entire twelve  
 29 (12) hours that the polls are open:  
 30 (2) The voter will be absent from the precinct of the voter's  
 31 residence on election day because of service as:  
 32 (A) a precinct election officer under IC 3-6-6;  
 33 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;  
 34 (C) a challenger or pollbook holder under IC 3-6-7; or  
 35 (D) a person employed by an election board to administer the  
 36 election for which the absentee ballot is requested.  
 37 (3) The voter will be confined on election day to the voter's  
 38 residence, to a health care facility, or to a hospital because of an  
 39 illness or injury during the entire twelve (12) hours that the polls  
 40 are open.  
 41 (4) The voter is a voter with disabilities.  
 42 (5) The voter is an elderly voter.

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- 1 (6) The voter is prevented from voting due to the voter's care of
- 2 an individual confined to a private residence because of illness or
- 3 injury during the entire twelve (12) hours that the polls are open.
- 4 (7) The voter is scheduled to work at the person's regular place of
- 5 employment during the entire twelve (12) hours that the polls are
- 6 open.
- 7 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 8 (9) The voter is prevented from voting due to observance of a
- 9 religious discipline or religious holiday during the entire twelve
- 10 (12) hours that the polls are open.
- 11 (10) The voter is an address confidentiality program participant
- 12 (as defined in IC 5-26.5-1-6).
- 13 (b) A voter with disabilities who:
- 14 (1) is unable to make a voting mark on the ballot or sign the
- 15 absentee ballot secrecy envelope; and
- 16 (2) requests that the absentee ballot be delivered to an address
- 17 within Indiana;
- 18 must vote before an absentee voter board under section 25(b) of this
- 19 chapter.
- 20 (c) If a voter receives an absentee ballot by mail, the voter shall
- 21 personally mark the ballot in secret and seal the marked ballot inside
- 22 the envelope provided by the county election board for that purpose.
- 23 The voter shall:
- 24 (1) deposit the sealed envelope in the United States mail for
- 25 delivery to the county election board; or
- 26 (2) authorize a member of the voter's household or the individual
- 27 designated as the voter's attorney in fact to:
- 28 (A) deposit the sealed envelope in the United States mail; or
- 29 (B) deliver the sealed envelope in person to the county
- 30 election board.
- 31 (d) If a member of the voter's household or the voter's attorney in
- 32 fact delivers the sealed envelope containing a voter's absentee ballot to
- 33 the county election board, the individual delivering the ballot shall
- 34 complete an affidavit in a form prescribed by the commission. The
- 35 affidavit must contain the following information:
- 36 (1) The name and residence address of the voter whose absentee
- 37 ballot is being delivered.
- 38 (2) A statement of the full name, residence and mailing address,
- 39 and daytime and evening telephone numbers (if any) of the
- 40 individual delivering the absentee ballot.
- 41 (3) A statement indicating whether the individual delivering the
- 42 absentee ballot is a member of the voter's household or is the

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1 attorney in fact for the voter. If the individual is the attorney in  
 2 fact for the voter, the individual must attach a copy of the power  
 3 of attorney for the voter, unless a copy of this document has  
 4 already been filed with the county election board.  
 5 (4) The date and location at which the absentee ballot was  
 6 delivered by the voter to the individual delivering the ballot to the  
 7 county election board.  
 8 (5) A statement that the individual delivering the absentee ballot  
 9 has complied with Indiana laws governing absentee ballots.  
 10 (6) A statement that the individual delivering the absentee ballot  
 11 is executing the affidavit under the penalties of perjury.  
 12 (7) A statement setting forth the penalties for perjury.  
 13 (e) The county election board shall record the date and time that the  
 14 affidavit under subsection (d) was filed with the board.  
 15 (f) After a voter has mailed or delivered an absentee ballot to the  
 16 office of the circuit court clerk, the voter may not recast a ballot, except  
 17 as provided in:  
 18 (1) section 1.5 of this chapter; or  
 19 (2) section 33 of this chapter.  
 20 SECTION 5. IC 3-11-18 IS REPEALED [EFFECTIVE UPON  
 21 PASSAGE].  
 22 SECTION 6. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1509, 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.

Delete page 2.

Page 3, delete lines 1 through 39.

Page 9, delete lines 34 through 42, begin a new paragraph and insert:

"SECTION 5. IC 3-11-18 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 6. **An emergency is declared for this act.**".

Delete pages 10 through 11.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1509 as introduced.)

BATTLES, Chair

Committee Vote: yeas 7, nays 5.

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