

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 175

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-11-4-2, AS AMENDED BY P.L.103-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. Except as provided in subsection (b), the voter must sign the absentee ballot application.

(b) If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter. If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) A person may provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

- (1) The name of the individual.
- (2) The voter registration address of the individual.
- (3) The mailing address of the individual.
- (4) The date of birth of the individual.
- ~~(5) The voter identification number of the individual.~~

(d) A person may not provide an individual with an application for

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an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

- (1) The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual.
- (2) In a primary election, the major political party ballot requested by the individual.
- (3) In a primary or general election, the types of absentee ballots requested by the individual.
- (4) The reason why the individual is entitled to vote an absentee ballot:

(A) by mail; or

(B) before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);

in accordance with IC 3-11-4-18, IC 3-11-10-24, or IC 3-11-10-25.

(5) The voter identification number of the individual.

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

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

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

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

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

whichever occurs first.

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

- (1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person submitting the application.
- (2) A statement that the person filing the affidavit has complied with Indiana laws governing the submission of absentee ballot applications.
- (3) A statement that the person has no knowledge or reason to believe that the individual whose application is to be filed:
 - (A) is ineligible to vote or to cast an absentee ballot; or
 - (B) did not properly complete and sign the application.
- (4) A statement that the person is executing the affidavit under the penalties of perjury.
- (5) A statement setting forth the penalties for perjury.

(i) The county election board shall record the date and time of the filing of the affidavit.

SECTION 2. IC 3-11-4-5.1, AS AMENDED BY P.L.1-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter that contains a standardized oath for those voters. The form of the application for an absentee ballot must do all of the following:

- (1) Require the applicant to swear to or affirm under the penalties of perjury that all of the information set forth on the application is true to the best of the applicant's knowledge and belief.
- (2) Require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the

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statements set forth in section 2(f) of this chapter.

(3) Set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

(1) requests an absentee ballot; and

(2) is eligible to vote in the precinct under IC 3-10-11 or IC 3-10-12;

must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

(d) Not later than June 30, 2012, the commission shall approve absentee ballot application forms that comply with this subsection. The form prescribed by the commission must request that a voter who requests an absentee ballot:

(1) provide the last four (4) digits of the voter's Social Security number; or

(2) state that the voter does not have a Social Security number.

The form must indicate that the voter's compliance with this request is optional.

(e) An application form submitted by a voter after June 30, 2012, must:

(1) comply with subsection (d); or

(2) be an earlier approved version of an application form authorized for use on June 30, 2012.

SECTION 3. IC 3-11-4-17, AS AMENDED BY P.L.198-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record all of the following **in the statewide voter registration list maintained under IC 3-7-26.3:**

(1) The voter's name.

(2) The date the application is received.

(3) The information provided by the voter under section 5.1(d) of this chapter.

~~(4)~~ **(4)** The date the ballot is sent to the voter.

~~(5)~~ **(5)** If mailed, the address to which the ballot is sent.

~~(6)~~ **(6)** If transmitted by fax, the fax number to which the ballot is faxed.

~~(7)~~ **(7)** The date the ballot is marked before the clerk or otherwise received from the voter.

~~(8)~~ **(8)** The combined total number of absentee ballots sent by the county to absent uniformed services voters and overseas voters.

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~~(8)~~ **(9)** The total number of absentee ballots returned by voters described in subdivision ~~(7)~~ **(8)** in time to be counted.

~~(9)~~ **(10)** The total number of absentee ballots described in subdivision ~~(7)~~ **(8)** that were counted in whole or in part.

~~(10)~~ **(11)** Any other information that is necessary or advisable.

SECTION 4. IC 3-11-4-17.5, AS AMENDED BY P.L.164-2006, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board (or the absentee voter board in the office of the circuit court clerk) shall determine if:

(1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;

(2) the information set forth on the application appears to be true; and

(3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. If the application is submitted by a voter wanting to cast an absentee ballot under IC 3-11-10-26, the voter shall be permitted to cast an absentee ballot, and the voter's absentee ballot shall be treated as a provisional ballot.

(b) If:

(1) the applicant is not a voter of the precinct according to the registration record; or

(2) the application as completed and filed:

(A) contains a false statement; or

(B) does not otherwise comply with Indiana or federal law;

as alleged under section 18.5 of this chapter, the county election board shall deny the application.

(c) A voter's failure to provide the information requested under section 5.1(d) of this chapter does not affect a voter's ability to receive an absentee ballot. A county election board may not deny an application because the voter has not provided the information requested under section 5.1(d) of this chapter as a part of the voter's application for an absentee ballot.

~~(e)~~ **(d)** This subsection applies to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for

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the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and
- (2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

~~(d)~~ (e) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

- (1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and
- (2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

~~(e)~~ (f) If the applicant:

- (1) is a voter of the precinct according to the registration record;
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and
- (3) provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 5. IC 3-11-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. During the period that absentee ballots are being received, each county election board shall keep the ballots in cabinets, boxes, or a room upon which there are two (2) locks, one (1) for each of the appointed members of the board. Each day the absentee ballots shall be placed in the cabinets, boxes, or room under the direction of the appointed members of the board. If an appointed member cannot be present each day, then that member shall designate someone from the member's political party to

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be present with the key to the lock at the time the ballots are secured and at the time the lock is opened the next day. The key of each appointed member of the board shall be kept secure in the manner determined by that appointed member.

SECTION 6. [EFFECTIVE JULY 1, 2012] (a) As used in this SECTION, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.

(b) As used in this SECTION, "study committee" means either of the following:

(1) A statutory committee established under IC 2-5.

(2) An interim study committee.

(c) The legislative council is urged to assign the following topics to a study committee during the 2012 legislative interim:

(1) Ballot security for an absentee ballot transmitted to and from a voter by mail.

(2) Connection of the statewide voter registration list established under IC 3-7-26.3 and files maintained by the department of state revenue.

(d) If the topics described in subsection (c) are assigned to a study committee, the study committee shall issue a final report to the legislative council containing the study committee's findings and recommendations, including any recommended legislation concerning the topics, in an electronic format under IC 5-14-6 not later than November 1, 2012.

(e) This SECTION expires December 31, 2012.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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