

# SENATE BILL No. 174

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Absentee voting. 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.)

**Effective:** January 1, 2021.

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January 13, 2020, read first time and referred to Committee on Elections.

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Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## SENATE BILL No. 174

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, AS AMENDED BY P.L.66-2010,  
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2021]: Sec. 1. (a) A voter who is otherwise qualified to  
4 vote in person is entitled to vote by absentee ballot: ~~Except~~  
5 **(1) by mail;**  
6 **(2) before an absentee voter board** as otherwise provided in this  
7 article; a ~~voter voting by absentee ballot must vote~~  
8 **(3) in the office of the circuit court clerk (or board of elections**  
9 **and registration in a county subject to IC 3-6-5.2); or**  
10 **(4) at a satellite office established under IC 3-11-10-26.3.**  
11 (b) A county election board, by unanimous vote of its entire  
12 membership, may authorize a person who is otherwise qualified to vote  
13 in person to vote by absentee ballot if the board determines that the  
14 person has been hospitalized or suffered an injury following the final  
15 date and hour for applying for an absentee ballot that would prevent the  
16 person from voting in person at the polls.  
17 (c) The commission, by unanimous vote of its entire membership,



1 may authorize a person who is otherwise qualified to vote in person to  
 2 vote by absentee ballot if the commission determines that an  
 3 emergency prevents the person from voting in person at a polling place.

4 (d) The absentee ballots used in subsection (b) or (c) must be the  
 5 same official absentee ballots as described in section 12.5 of this  
 6 chapter. Taking into consideration the amount of time remaining before  
 7 the election, the commission shall determine whether the absentee  
 8 ballots are transmitted to and from the voter by mail or personally  
 9 delivered. An absentee ballot that is personally delivered shall comply  
 10 with the requirements in sections 19, 20, and 21 of this chapter.

11 SECTION 2. IC 3-11-4-2, AS AMENDED BY P.L.278-2019,  
 12 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JANUARY 1, 2021]: Sec. 2. (a) A voter who wants to vote by absentee  
 14 ballot must apply to the county election board for an official absentee  
 15 ballot. Except as provided in subsection (b), the voter must sign the  
 16 absentee ballot application.

17 (b) If a voter with disabilities is unable to sign the absentee ballot  
 18 application and the voter has not designated an individual to serve as  
 19 attorney in fact for the voter, the voter may designate an individual  
 20 eligible to assist the voter under IC 3-11-9-2(a) to sign the application  
 21 on behalf of the voter and add the individual's name to the application.  
 22 If an individual applies for an absentee ballot as the properly  
 23 authorized attorney in fact for a voter, the attorney in fact must attach  
 24 a copy of the power of attorney to the application and comply with  
 25 subsection (d).

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

- 29 (1) The name of the individual.
- 30 (2) The voter registration address of the individual.
- 31 (3) The mailing address of the individual.
- 32 (4) The date of birth of the individual.

33 (d) A person may not provide an individual with an application for  
 34 an absentee ballot with the following information already printed or  
 35 otherwise set forth on the application when provided to the individual:

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



- 1 ballot:
- 2 (A) by mail; or
- 3 (B) before an absentee voter board (other than an absentee
- 4 voter board located in the office of the circuit court clerk or a
- 5 satellite office);
- 6 in accordance with IC 3-11-4-18; IC 3-11-10-24; or
- 7 IC 3-11-10-25.
- 8 (5) (4) The voter identification number of the individual.
- 9 (e) If the county election board determines that an absentee ballot
- 10 application does not comply with subsection (d), the board shall deny
- 11 the application under section 17.5 of this chapter.
- 12 (f) A person who assists an individual in completing any
- 13 information described in subsection (d) on an absentee ballot
- 14 application shall state under the penalties for perjury the following
- 15 information on the application:
- 16 (1) The full name, residence and mailing address, and daytime
- 17 and evening telephone numbers (if any) of the person providing
- 18 the assistance.
- 19 (2) The date this assistance was provided.
- 20 (3) That the person providing the assistance has complied with
- 21 Indiana laws governing the submission of absentee ballot
- 22 applications.
- 23 (4) That the person has no knowledge or reason to believe that the
- 24 individual submitting the application:
- 25 (A) is ineligible to vote or to cast an absentee ballot; or
- 26 (B) did not properly complete and sign the application.
- 27 When providing assistance to an individual, the person must, in the
- 28 individual's presence and with the individual's consent, provide the
- 29 information listed in subsection (d) if the individual is unable to do so.
- 30 (g) This subsection does not apply to an employee of the United
- 31 States Postal Service or a bonded courier company acting in the
- 32 individual's capacity as an employee of the United States Postal Service
- 33 or a bonded courier company. A person who receives a completed
- 34 absentee ballot application from the individual who has applied for the
- 35 absentee ballot shall indicate on the application the date the person
- 36 received the application, and file the application with the appropriate
- 37 county election board or election division not later than:
- 38 (1) noon ten (10) days after the person receives the application;
- 39 or
- 40 (2) the deadline set by Indiana law for filing the application with
- 41 the board;
- 42 whichever occurs first. The election division, a county election board,



1 or a board of elections and registration shall forward an absentee ballot  
 2 application to the county election board or board of elections and  
 3 registration of the county where the individual resides.

4 (h) This subsection does not apply to an employee of the United  
 5 States Postal Service or a bonded courier company acting in the  
 6 individual's capacity as an employee of the United States Postal Service  
 7 or a bonded courier company, or to the election division, a county  
 8 election board, or a board of elections and registration. A person filing  
 9 an absentee ballot application, other than the person's own absentee  
 10 ballot application, must include an affidavit with the application. The  
 11 affidavit must be signed by the individual who received the completed  
 12 application from the applicant. The affidavit must be in a form  
 13 prescribed by the election division. The form must include the  
 14 following:

15 (1) A statement of the full name, residence and mailing address,  
 16 and daytime and evening telephone numbers (if any) of the person  
 17 submitting the application.

18 (2) A statement that the person filing the affidavit has complied  
 19 with Indiana laws governing the submission of absentee ballot  
 20 applications.

21 (3) The date (or dates) that the absentee ballot applications  
 22 attached to the affidavit were received.

23 (4) A statement that the person has no knowledge or reason to  
 24 believe that the individual whose application is to be filed:

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

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

27 (5) A statement that the person is executing the affidavit under the  
 28 penalties of perjury.

29 (6) A statement setting forth the penalties for perjury.

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

32 SECTION 3. IC 3-11-4-18, AS AMENDED BY P.L.100-2018,  
 33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JANUARY 1, 2021]: Sec. 18. (a) ~~If a voter satisfies any of the~~  
 35 ~~qualifications described in IC 3-11-10-24 that entitle a voter to cast an~~  
 36 ~~absentee ballot by mail~~; The county election board shall, at the request  
 37 of the voter, mail ~~the~~ **an** official ballot, postage fully prepaid, to the  
 38 voter at the address stated in the application. Each ballot may be  
 39 assigned a unique tracking number as prescribed by the election  
 40 division using IMb Tracing or a similar automated tracking method to  
 41 provide real-time tracking information for the envelope containing the  
 42 ballot. As used in this subsection, "IMb Tracing" refers to a real-time



1 mail tracking service offered through the United States Postal Service.

2 (b) If the county election board mails an absentee ballot to a voter  
 3 required to file additional documentation with the county voter  
 4 registration office before voting by absentee ballot under this chapter,  
 5 the board shall include a notice to the voter in the envelope mailed to  
 6 the voter under section 20 of this chapter. The notice must inform the  
 7 voter that the voter must file the additional documentation required  
 8 under IC 3-7-33-4.5 with the county voter registration office not later  
 9 than noon on election day for the absentee ballot to be counted as an  
 10 absentee ballot, and that, if the documentation required under  
 11 IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the  
 12 ballot will be processed as a provisional ballot. The election division  
 13 shall prescribe the form of this notice under IC 3-5-4-8.

14 (c) Except as provided in this subsection, section 18.5 of this  
 15 chapter, or IC 3-11-10-26.5, the ballot shall be transmitted:

- 16 (1) on the day of the receipt of the voter's application; or  
 17 (2) not more than five (5) days after the date of delivery of the  
 18 ballots under section 15 of this chapter;

19 whichever is later. If the election board determines that the county  
 20 voter registration office has received an application from the applicant  
 21 for registration at an address within the precinct indicated on the  
 22 application, and the election board determines that this application is  
 23 pending under IC 3-7-33, the ballot shall be mailed on the date the  
 24 county voter registration office indicates under IC 3-7-33-5(g) that the  
 25 applicant is a registered voter.

26 (d) As required by 52 U.S.C. 21081, an election board shall  
 27 establish a voter education program (specific to a paper ballot or  
 28 optical scan ballot card provided as an absentee ballot under this  
 29 chapter) to notify a voter of the effect of casting multiple votes for a  
 30 single office.

31 (e) As provided by 52 U.S.C. 21081, when an absentee ballot is  
 32 transmitted under this section, the mailing must include:

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

37 SECTION 4. IC 3-11-10-24, AS AMENDED BY P.L.278-2019,  
 38 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JANUARY 1, 2021]: Sec. 24. (a) Except as provided in subsection (b),  
 40 a voter ~~who satisfies any of the following~~ is entitled to vote by mail.

- 41 ~~(+) The voter has a specific, reasonable expectation of being~~  
 42 ~~absent from the county on election day during the entire twelve~~



- 1 (12) hours that the polls are open.  
 2 (2) The voter will be absent from the precinct of the voter's  
 3 residence on election day because of service as:  
 4 (A) a precinct election officer under IC 3-6-6;  
 5 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;  
 6 (C) a challenger or pollbook holder under IC 3-6-7; or  
 7 (D) a person employed by an election board to administer the  
 8 election for which the absentee ballot is requested.  
 9 (3) The voter will be confined on election day to the voter's  
 10 residence, to a health care facility, or to a hospital because of an  
 11 illness or injury during the entire twelve (12) hours that the polls  
 12 are open.  
 13 (4) The voter is a voter with disabilities.  
 14 (5) The voter is an elderly voter.  
 15 (6) The voter is prevented from voting due to the voter's care of  
 16 an individual confined to a private residence because of illness or  
 17 injury during the entire twelve (12) hours that the polls are open.  
 18 (7) The voter is scheduled to work at the person's regular place of  
 19 employment during the entire twelve (12) hours that the polls are  
 20 open.  
 21 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.  
 22 (9) The voter is prevented from voting due to observance of a  
 23 religious discipline or religious holiday during the entire twelve  
 24 (12) hours that the polls are open.  
 25 (10) The voter is an address confidentiality program participant  
 26 (as defined in IC 5-26.5-1-6).  
 27 (11) The voter is a member of the military or public safety officer.  
 28 (12) The voter is a serious sex offender (as defined in  
 29 IC 35-42-4-14(a)).  
 30 (13) The voter is prevented from voting due to the unavailability  
 31 of transportation to the polls.  
 32 (b) A voter with disabilities who:  
 33 (1) is unable to make a voting mark on the ballot or sign the  
 34 absentee ballot secrecy envelope; and  
 35 (2) requests that the absentee ballot be delivered to an address  
 36 within Indiana;  
 37 must vote before an absentee voter board under section 25(b) of this  
 38 chapter.  
 39 (c) If a voter receives an absentee ballot by mail, the voter shall  
 40 personally mark the ballot in secret and seal the marked ballot inside  
 41 the envelope provided by the county election board for that purpose.  
 42 The voter shall:



- 1 (1) deposit the sealed envelope in the United States mail for  
2 delivery to the county election board; or  
3 (2) authorize a member of the voter's household or the individual  
4 designated as the voter's attorney in fact to:  
5 (A) deposit the sealed envelope in the United States mail; or  
6 (B) deliver the sealed envelope in person to the county  
7 election board.
- 8 (d) If a member of the voter's household or the voter's attorney in  
9 fact delivers the sealed envelope containing a voter's absentee ballot to  
10 the county election board, the individual delivering the ballot shall  
11 complete an affidavit in a form prescribed by the election division. The  
12 affidavit must contain the following information:
- 13 (1) The name and residence address of the voter whose absentee  
14 ballot is being delivered.  
15 (2) A statement of the full name, residence and mailing address,  
16 and daytime and evening telephone numbers (if any) of the  
17 individual delivering the absentee ballot.  
18 (3) A statement indicating whether the individual delivering the  
19 absentee ballot is a member of the voter's household or is the  
20 attorney in fact for the voter. If the individual is the attorney in  
21 fact for the voter, the individual must attach a copy of the power  
22 of attorney for the voter, unless a copy of this document has  
23 already been filed with the county election board.  
24 (4) The date and location at which the absentee ballot was  
25 delivered by the voter to the individual delivering the ballot to the  
26 county election board.  
27 (5) A statement that the individual delivering the absentee ballot  
28 has complied with Indiana laws governing absentee ballots.  
29 (6) A statement that the individual delivering the absentee ballot  
30 is executing the affidavit under the penalties of perjury.  
31 (7) A statement setting forth the penalties for perjury.
- 32 (e) The county election board shall record the date and time that the  
33 affidavit under subsection (d) was filed with the board.
- 34 (f) After a voter has mailed or delivered an absentee ballot to the  
35 office of the circuit court clerk, the voter may not recast a ballot, except  
36 as provided in IC 3-11.5-4-2.

