

SENATE BILL No. 261

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, 2020.

Mrvan

January 3, 2019, read first time and referred to Committee on Elections.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 261

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, 2020]: 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.169-2015,
 12 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JANUARY 1, 2020]: 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 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 sign an affidavit at the time of filing the
11 application. The affidavit must be in a form prescribed by the election
12 division. The form must include the following:

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

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

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

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

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

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

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

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

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

30 SECTION 3. IC 3-11-4-18, AS AMENDED BY P.L.100-2018,
31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JANUARY 1, 2020]: Sec. 18. (a) ~~If a voter satisfies any of the~~
33 ~~qualifications described in IC 3-11-10-24 that entitle a voter to cast an~~
34 ~~absentee ballot by mail~~; The county election board shall, at the request
35 of the voter, mail ~~the an~~ official ballot, postage fully prepaid, to the
36 voter at the address stated in the application. Each ballot may be
37 assigned a unique tracking number as prescribed by the election
38 division using IMb Tracing or a similar automated tracking method to
39 provide real-time tracking information for the envelope containing the
40 ballot. As used in this subsection, "IMb Tracing" refers to a real-time
41 mail tracking service offered through the United States Postal Service.

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



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

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

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

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

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

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

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

35 SECTION 4. IC 3-11-10-24, AS AMENDED BY P.L.169-2015,
 36 SECTION 119, IS AMENDED TO READ AS FOLLOWS
 37 [EFFECTIVE JANUARY 1, 2020]: Sec. 24. (a) Except as provided in
 38 subsection (b), a voter ~~who satisfies any of the following~~ is entitled to
 39 vote by mail.

- 40 ~~(1) The voter has a specific, reasonable expectation of being~~
- 41 ~~absent from the county on election day during the entire twelve~~
- 42 ~~(12) hours that the polls are open.~~



1 (2) The voter will be absent from the precinct of the voter's
2 residence on election day because of service as:

3 (A) a precinct election officer under IC 3-6-6;

4 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

5 (C) a challenger or pollbook holder under IC 3-6-7; or

6 (D) a person employed by an election board to administer the
7 election for which the absentee ballot is requested.

8 (3) The voter will be confined on election day to the voter's
9 residence, to a health care facility, or to a hospital because of an
10 illness or injury during the entire twelve (12) hours that the polls
11 are open.

12 (4) The voter is a voter with disabilities.

13 (5) The voter is an elderly voter.

14 (6) The voter is prevented from voting due to the voter's care of
15 an individual confined to a private residence because of illness or
16 injury during the entire twelve (12) hours that the polls are open.

17 (7) The voter is scheduled to work at the person's regular place of
18 employment during the entire twelve (12) hours that the polls are
19 open.

20 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

21 (9) The voter is prevented from voting due to observance of a
22 religious discipline or religious holiday during the entire twelve
23 (12) hours that the polls are open.

24 (10) The voter is an address confidentiality program participant
25 (as defined in IC 5-26.5-1-6).

26 (11) The voter is a member of the military or public safety officer.

27 (12) The voter is a serious sex offender (as defined in
28 IC 35-42-4-14(a)).

29 (13) The voter is prevented from voting due to the unavailability
30 of transportation to the polls.

31 (b) A voter with disabilities who:

32 (1) is unable to make a voting mark on the ballot or sign the
33 absentee ballot secrecy envelope; and

34 (2) requests that the absentee ballot be delivered to an address
35 within Indiana;

36 must vote before an absentee voter board under section 25(b) of this
37 chapter.

38 (c) If a voter receives an absentee ballot by mail, the voter shall
39 personally mark the ballot in secret and seal the marked ballot inside
40 the envelope provided by the county election board for that purpose.
41 The voter shall:

42 (1) deposit the sealed envelope in the United States mail for



- 1 delivery to the county election board; or
2 (2) authorize a member of the voter's household or the individual
3 designated as the voter's attorney in fact to:
4 (A) deposit the sealed envelope in the United States mail; or
5 (B) deliver the sealed envelope in person to the county
6 election board.
- 7 (d) If a member of the voter's household or the voter's attorney in
8 fact delivers the sealed envelope containing a voter's absentee ballot to
9 the county election board, the individual delivering the ballot shall
10 complete an affidavit in a form prescribed by the election division. The
11 affidavit must contain the following information:
12 (1) The name and residence address of the voter whose absentee
13 ballot is being delivered.
14 (2) A statement of the full name, residence and mailing address,
15 and daytime and evening telephone numbers (if any) of the
16 individual delivering the absentee ballot.
17 (3) A statement indicating whether the individual delivering the
18 absentee ballot is a member of the voter's household or is the
19 attorney in fact for the voter. If the individual is the attorney in
20 fact for the voter, the individual must attach a copy of the power
21 of attorney for the voter, unless a copy of this document has
22 already been filed with the county election board.
23 (4) The date and location at which the absentee ballot was
24 delivered by the voter to the individual delivering the ballot to the
25 county election board.
26 (5) A statement that the individual delivering the absentee ballot
27 has complied with Indiana laws governing absentee ballots.
28 (6) A statement that the individual delivering the absentee ballot
29 is executing the affidavit under the penalties of perjury.
30 (7) A statement setting forth the penalties for perjury.
31 (e) The county election board shall record the date and time that the
32 affidavit under subsection (d) was filed with the board.
33 (f) After a voter has mailed or delivered an absentee ballot to the
34 office of the circuit court clerk, the voter may not recast a ballot, except
35 as provided in section 1.5 of this chapter.

