

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 328

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AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-6-4.2-14, AS AMENDED BY P.L.141-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2021 (RETROACTIVE)]: Sec. 14. (a) Each year in which a general or municipal election is held, the election division shall call a meeting of all the members of the county election boards, the boards of registration (subject to IC 3-7-12), and the boards of elections and registration (as defined in IC 3-5-2-5.3) to instruct them regarding all of the following:

- (1) Their duties under this title and federal law (including HAVA and NVRA).
- (2) Requirements and best practices concerning cybersecurity for the computerized list, voting systems, and electronic poll books.
- (3) Physical security for all aspects of the election process, including voting systems, electronic poll books, absentee voting, and polling places.
- (4) Requirements and best practices to ensure that voting systems, precinct polling places, and vote centers are accessible to voters with disabilities.
- (5) Best practices in answering voters' questions on how to vote, including providing instructions to voters on straight ticket voting.

(b) The election division may ~~but is not required to~~, call a meeting under this section:



(1) during a year in which a general or a municipal election is not held; **and**

**(2) at other times when the election division determines that doing so is necessary or desirable.**

(c) Each circuit court clerk, each member of a board of registration established under IC 3-7-12, and each ~~member~~ **director, assistant director, or co-director** of a board of elections and registration shall attend a meeting called by the election division under this section. **A member of a county election board may attend a meeting called by the election division under this section.** A circuit court clerk, member of a board of registration, or member of a board of elections and registration may require the attendance of the following:

(1) Each of the circuit court clerk's, board of registration member's, or board of elections and registration member's appointed and acting chief deputies or chief assistants with election related responsibilities.

(2) If the number of deputies or assistants:

(A) is not more than three (3), one (1) of the clerk's or member's appointed and acting deputies or assistants; or

(B) is greater than three (3), two (2) of the clerk's or member's appointed and acting deputies or assistants.

(d) The election division shall set the time and place of the instructional meeting. In years in which a primary election is held, the election division:

(1) may conduct the meeting before the first day of the year; and

(2) shall conduct the meeting before primary election day.

The instructional meeting may not last for more than ~~two (2)~~ **three (3)** days.

(e) **This subsection applies to a meeting under subsection (c) conducted before January 1, 2022.** Each individual required to attend the meeting under subsection (c) and an individual who has been elected or selected to serve as circuit court clerk but has not yet begun serving in that office is entitled to receive all of the following from the county general fund without appropriation:

(1) A per diem of twenty-four dollars (\$24) for attending the instructional meeting called by the election division under this section.

(2) A mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting called by the election division under this section.

(3) Reimbursement for the payment of the instructional meeting



registration fee.

(4) An allowance for lodging for each night preceding conference attendance equal to the lodging allowance provided to state employees in travel status.

**Payment of a per diem, mileage allowance, reimbursement, or lodging allowance under this section for a meeting conducted before January 1, 2022 is legalized and validated.**

**(f) This subsection applies to a meeting under subsection (c) conducted on or after January 1, 2022. Each individual who attends the meeting under subsection (c) and an individual who has been elected or selected to serve a circuit court clerk but has not yet begun serving in that office is entitled to receive all of the following from the county general fund without appropriation:**

**(1) A sum for mileage at a rate determined by the fiscal body of the unit the official represents for each mile necessarily traveled in going to and returning from the meeting by the most expeditious route. Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance even if the official transports more than one (1) person.**

**(2) An allowance for lodging for each night preceding conference attendance in an amount equal to the single room rate. However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther from the conference location.**

**(3) Reimbursement of an official, a deputy, or an assistant in an amount determined by the fiscal body of the unit the official, deputy, or assistant represents, for meals purchased while attending a conference called under this section.**

**(g) This subsection applies to a meeting conducted on or after January 1, 2022. The election division shall certify the number of days of attendance and the mileage for each conference to each official, deputy, or assistant attending any conference under this section.**

**(h) This subsection applies to a meeting conducted on or after January 1, 2022. All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the election division showing the number of days attended and the number of miles traveled. All payments shall be made from the county general fund from any money not otherwise appropriated and without any previous appropriation being made**



therefore.

**(i) This subsection applies to a meeting conducted on or after January 1, 2022. A claim for reimbursement under this section may not be denied by the body responsible for the approval of claims if the claim complies with IC 5-11-10-1.6 and this section.**

SECTION 2. IC 3-10-1-31.1, AS AMENDED BY P.L.193-2021, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31.1. (a) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(b) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots (including provisional ballots) and other material (including election material related to provisional ballots) during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (c) and notwithstanding any other provision of state law, after the recount or contest filing period, the election material, including election material related to provisional ballots (except for ballots and provisional ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 52 U.S.C. 20701, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 52 U.S.C. 10301;

requires the continued preservation of the ballots or other material.

(c) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(d) Upon delivery of the poll lists, the county voter registration office shall unseal the envelopes containing the poll lists, inspect the poll lists, and update the registration records of the county. The county voter registration office shall use the poll lists and information on affidavits executed under IC 3-10-10, IC 3-10-11, or IC 3-10-12 to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list and affidavits shall be preserved with the ballots and other materials in the manner prescribed by subsection (b) for the period



prescribed by subsections (b) and (c).

(e) In addition to the poll lists described in subsection (d), the county voter registration office shall use the affidavits described by IC 3-10-10-7, IC 3-10-11-4, and IC 3-10-12-3.4 to update the registration records of the county as soon as the affidavits are delivered to the county voter registration office.

(f) The county voter registration office shall retain a voter's paper registration records associated with the address at which the voter is registered to vote until all of the following are satisfied:

- (1) The voter's registration at the address stated in the voter's registration application has been canceled.
- (2) The general election immediately following the cancellation of the voter's registration under subdivision (1) has occurred.
- (3) Twenty-four (24) months have elapsed following the general election described in subdivision (2).

(g) This subsection does not apply to ballots, including provisional ballots. Notwithstanding subsection (b), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot. In addition, the county voter registration office shall keep confidential information contained in material related to provisional ballots that identifies an individual, except for the individual's name, address, and birth date.

(h) After the expiration of the period described in subsection (b) or (c), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

(i) This subsection applies to a detachable recording unit or compartment used to record a ballot cast on a direct record electronic voting system. After the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election, the circuit court clerk shall transfer the data contained in the unit or compartment to a disc or other recording medium. After transferring the data, the clerk may clear or erase the unit or compartment. The circuit court clerk shall carefully preserve the disc or medium used to record the data for twenty-two (22) months, as required by 52 U.S.C. 20701, after which time the disc or medium may be erased or destroyed, subject to IC 5-15-6, unless an order requiring the continued preservation of the disc or medium is issued under the following:



- (1) IC 3-12-6-19.
- (2) IC 3-12-11-16.
- (3) 52 U.S.C. 10301.

(j) This subsection applies to a county using an electronic poll book. After each election, the county shall save all data recorded on the electronic poll book and any information stored on the dedicated, private server required under IC 3-11-8-10.3(b)(4). The circuit court clerk shall carefully preserve the disc or medium used to record the data for twenty-two (22) months, as required by 52 U.S.C. 20701, after which time the data may be erased or destroyed, subject to IC 5-15-6, unless an order requiring the continued preservation of the data is issued under the following:

- (1) IC 3-12-6-19.
- (2) IC 3-12-11-16.
- (3) 52 U.S.C. 10301.

**(k) This section does not prohibit county election officials from performing post-election audits, as authorized by statute.**

SECTION 3. IC 3-11-4-3, AS AMENDED BY P.L.109-2021, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) Except as provided in subsection (c) and 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 or IC 3-6-5.6, the director of the board of elections and registration) not earlier than the date the registration period resumes under IC 3-7-13-10 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:
  - (A) completes the application in the office of the circuit court clerk under IC 3-11-10-26; or
  - (B) is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by electronic mail or 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 electronic mail or 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 under IC 3-11-10-25.
- (4) 11:59 p.m. twelve (12) days before election day if the application is:



- (A) a mailed application;
- (B) transmitted by electronic mail;
- (C) transmitted by fax; or
- (D) hand delivered;

from other voters who request to vote by mail under IC 3-11-10-24 **or for a voter with print disabilities to vote by electronic mail or fax under section 6(h) of this chapter.**

(b) An application for an absentee ballot received by the election division by the time and date specified by subsection (a)(2)(B), (a)(3), or (a)(4) is considered to have been timely received for purposes of processing by the county. The election division shall immediately transmit the application to the circuit court clerk, or the director of the board of elections and registration, of the county where the applicant resides. The election division is not required to complete or file the affidavit required under section 2(h) of this chapter whenever the election division transmits an application under this subsection.

(c) An application for an absentee ballot for the election may not be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2 or IC 3-6-5.6, the director of the board of elections and registration) earlier than December 1 of the year before the election.

SECTION 4. IC 3-14-2-31 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 31. Except for casting a replacement ballot in accordance with this title, a voter who knowingly or intentionally votes more than one (1) ballot in the same election commits a Level 6 felony.**

SECTION 5. IC 35-52-3-43.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 43.5. IC 3-14-2-31 defines a crime concerning voting.**

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



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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