

## SENATE BILL No. 32

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-11-4-6; IC 3-11-4-7; IC 5-26.

**Synopsis:** Protection from domestic violence; address confidentiality. Establishes an address confidentiality program in the office of the secretary of state. Makes the program available to individuals, including minors and incapacitated persons represented by a parent or guardian, who are victims of domestic violence and wish to keep their addresses confidential from their abusers. Prescribes guidelines for the administration of the program. Provides that an address designated by the secretary of state serves as the individual's address, including for purposes of: (1) service of process; and (2) receipt of mail. Enables the  
(Continued next page)

**Effective:** July 1, 1998.

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## Simpson

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January 6, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Digest Continued

individual to vote without making the individual's address available to the public. Requires the address of the individual who participates in the program to remain confidential except under certain prescribed circumstances. Makes it a Class B misdemeanor for an individual to provide false or incorrect information on a program application. Requires the secretary of state to designate certain agencies that provide services to victims of domestic violence to assist an individual who applies to the program.



Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## SENATE BILL No. 32

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1           SECTION 1. IC 3-11-4-6, AS AMENDED BY P.L.3-1997,  
2 SECTION 274, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) This section applies,  
4 notwithstanding any other provision of this title, to absentee ballot  
5 applications for:  
6           (1) an absent uniformed services voter (as defined in 42 U.S.C.  
7           1973ff-6(1)); **and**  
8           (2) **an address confidentiality program participant (as**  
9           **defined in IC 5-26-1-6).**  
10           (b) A county election board shall make blank absentee ballot  
11 applications available for persons covered by this section after  
12 November 20 preceding the election to which the application applies.  
13 Except as provided in subsection (c), the person may apply for an  
14 absentee ballot at any time after the applications are made available.  
15           (c) A person covered by this section may apply for an absentee



1 ballot for the next scheduled primary, general, or special election at any  
2 time by filing a standard form approved under 42 U.S.C. 1973ff-(b).

3 (d) If the county election board receives an absentee ballot  
4 application from a person described by this section, the circuit court  
5 clerk shall mail to the person, free of postage as provided by 39 U.S.C.  
6 3406, all ballots for the election immediately upon receipt of the ballots  
7 under sections 13 and 15 of this chapter.

8 (e) Whenever an absent uniformed services voter **or an address**  
9 **confidentiality program participant (as defined in IC 5-26-1-6)** files  
10 an application for a primary election absentee ballot and indicates on  
11 the application that:

12 (1) the voter **is an absent uniformed services voter and** does  
13 not expect to be in the county on general election day and on the  
14 date of any special election conducted during the twelve (12)  
15 months following the date of the application; **or**

16 (2) **the voter is an address confidentiality program**  
17 **participant;**

18 the application is an adequate application for a general election  
19 absentee ballot under this chapter and an absentee ballot for a special  
20 election conducted during the twelve (12) months following the date of  
21 the application. The circuit court clerk and county election board shall  
22 process this application and mail general election and special election  
23 absentee ballots to the voter in the same manner as other general  
24 election and special election absentee ballot applications and ballots  
25 are processed and mailed under this chapter.

26 (f) **The county auditor shall not disclose for public inspection**  
27 **or copying the address of a confidentiality program participant (as**  
28 **defined in IC 5-26-1-6) that is contained in voter registration**  
29 **records except as follows:**

30 (1) **To a law enforcement agency, upon request.**

31 (2) **As directed by a court order.**

32 (f) (g) This subsection applies to a county election board that owns  
33 or has access to a facsimile (FAX) machine. The county election board  
34 may transmit and receive absentee ballots by FAX machine to voters  
35 covered under the Uniformed and Overseas Absentee Voting Act (42  
36 U.S.C. 1973ff) under the following circumstances:

37 (1) If an emergency is declared by the President of the United  
38 States, the Congress of the United States, or the presidential  
39 designee under the Uniformed and Overseas Absentee Voting  
40 Act (42 U.S.C. 1973ff).

41 (2) If otherwise mandated to do so under federal law.

42 SECTION 2. IC 3-11-4-7, AS AMENDED BY P.L.2-1996,



1 SECTION 143, IS AMENDED TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 1998]: Sec. 7. An absentee ballot application  
 3 under section 6 of this chapter must:

4 (1) be made on a standard form approved under 42 U.S.C.  
 5 1973ff-(b) or on the form prescribed by the commission under  
 6 section 5.1 of this chapter; and

7 (2) show that the:

8 (A) absent uniformed services voter (as defined in 42  
 9 U.S.C. 1973ff-6(1)); or

10 (B) **address confidentiality program participant (as  
 11 defined in IC 5-26-1-6);**

12 is a resident otherwise qualified to vote in the precinct.

13 SECTION 3. IC 5-26 IS ADDED TO THE INDIANA CODE AS  
 14 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 15 1998]:

16 **ARTICLE 26. ADDRESS CONFIDENTIALITY PROGRAM**

17 **Chapter 1. Definitions**

18 **Sec. 1. The definitions in this chapter apply throughout this  
 19 article.**

20 **Sec. 2. "Address" means:**

- 21 (1) a residential street address;  
 22 (2) a school address; or  
 23 (3) a work address;

24 **of an individual as specified on an individual's application to be a  
 25 program participant.**

26 **Sec. 3. "Domestic violence" has the meaning set forth in  
 27 IC 31-9-2-42 and includes a threat to commit an act described in  
 28 IC 31-9-2-42 against an individual regardless of whether the act or  
 29 threat has been reported to a law enforcement agency.**

30 **Sec. 4. "Incapacitated individual" has the meaning set forth in  
 31 IC 12-10-7-1.**

32 **Sec. 5. "Minor" means a person who is less than eighteen (18)  
 33 years of age.**

34 **Sec. 6. "Program participant" refers to an individual certified  
 35 as a program participant under IC 5-26-2-3.**

36 **Chapter 2. Address Confidentiality Program**

37 **Sec. 1. The following individuals may apply to the secretary of  
 38 state to have an address designated by the secretary of state serve  
 39 as the individual's address or as the address of a minor or an  
 40 incapacitated individual:**

- 41 (1) An individual who is at least eighteen (18) years of age.  
 42 (2) A parent or guardian acting on behalf of a minor.



1           (3) A guardian acting on behalf of an incapacitated  
2 individual.

3           **Sec. 2.** The secretary of state shall approve an application filed  
4 in the manner and on a form prescribed by the secretary of state  
5 if the application contains the following:

6           (1) A sworn statement by the applicant that the applicant has  
7 good reason to believe that:

8                   (A) the applicant, or the minor or incapacitated  
9 individual on whose behalf the application is made, is a  
10 victim of domestic violence; and

11                   (B) the applicant fears for:

12                           (i) the applicant's safety; or

13                           (ii) the safety of a minor or an incapacitated  
14 individual on whose behalf the application is made.

15           (2) A designation of the secretary of state as an agent of the  
16 applicant for the purpose of:

17                   (A) service of process; and

18                   (B) receipt of mail.

19           (3) The:

20                   (A) mailing address; and

21                   (B) telephone number;

22 where the applicant may be contacted by the secretary of  
23 state.

24           (4) The new address that the applicant requests not be  
25 disclosed because disclosure may increase the risk of  
26 domestic violence.

27           (5) The signature of the applicant and of any representative  
28 of an agency designated under IC 5-26-3-4 that assisted in  
29 the preparation of the application.

30           (6) The date upon which the applicant signed the application.

31           **Sec. 3.** (a) Upon approving an application under section 2 of  
32 this chapter, the secretary of state shall certify the applicant as a  
33 program participant.

34                   (b) Except as otherwise provided by statute, the residential and  
35 work addresses and telephone numbers of a program participant  
36 are confidential.

37           **Sec. 4.** A program participant may use an address designated  
38 by the secretary of state as the program participant's work  
39 address.

40           **Sec. 5.** A program participant who is otherwise qualified to  
41 vote may apply to vote in the same manner as an absent uniformed  
42 services voter under IC 3-11-4-6.



1           **Sec. 6. The duration of certification as a program participant**  
 2 **is four (4) years unless certification is withdrawn or invalidated**  
 3 **before that date. The period commences the date an application is**  
 4 **filed. The secretary of state shall establish a renewal procedure.**

5           **Sec. 7. A person who knowingly or intentionally:**

6           **(1) falsely attests in an application made under this chapter**  
 7 **that disclosure of the applicant's address would endanger:**

8                   **(A) the applicant's safety; or**

9                   **(B) the safety of a minor or an incapacitated individual**  
 10 **upon whose behalf the application is made; or**

11           **(2) provides false or incorrect information upon making an**  
 12 **application under this chapter;**

13 **commits a Class B misdemeanor.**

14           **Chapter 3. Duties of the Secretary of State**

15           **Sec. 1. The secretary of state may adopt rules to implement**  
 16 **this article.**

17           **Sec. 2. The secretary of state may not make a program**  
 18 **participant's address, other than an address designated by the**  
 19 **secretary of state, available for inspection or copying, except as**  
 20 **follows:**

21           **(1) When requested by a law enforcement agency, to the law**  
 22 **enforcement agency.**

23           **(2) When directed by a court order, to a person identified in**  
 24 **the order.**

25           **(3) When certification has been canceled.**

26           **Sec. 3. The office of the secretary of state shall forward first**  
 27 **class mail belonging to a program participant to the program**  
 28 **participant.**

29           **Sec. 4. The secretary of state shall designate:**

30                   **(1) state and local agencies; and**

31                   **(2) nonprofit agencies;**

32 **that provide counseling and shelter services to victims of domestic**  
 33 **violence to assist persons in applying to be program participants.**

34           **Sec. 5. Assistance and counseling rendered by the office of the**  
 35 **secretary of state or its designees to applicants under this article**  
 36 **may not be construed as legal advice.**

37           **Chapter 4. Certification Revocation**

38           **Sec. 1. The secretary of state shall revoke the certification of**  
 39 **a program participant who obtains a change of name under**  
 40 **IC 34-4-6.**

41           **Sec. 2. The secretary of state may revoke a program**  
 42 **participant's certification if the program participant changes**



1 residential address from the address listed on the application,  
 2 unless the program participant provides the secretary of state with  
 3 notice seven (7) days before the change of address.

4 **Sec. 3.** The secretary of state may revoke certification of a  
 5 program participant if mail forwarded by the secretary of state to  
 6 the program participant's address is returned as undeliverable.

7 **Sec. 4.** The secretary of state shall revoke certification of a  
 8 program participant who has applied to the address confidentiality  
 9 program using false information.

10 **Chapter 5. Agency Use of Designated Address**

11 **Sec. 1.** A program participant may request that a state or local  
 12 agency use the address designated by the secretary of state as the  
 13 program participant's address.

14 **Sec. 2.** Whenever a state or local agency creates a new public  
 15 record, the agency shall accept the address designated by the  
 16 secretary of state as a program participant's substitute address  
 17 unless the secretary of state determines that the agency:

18 (1) is required by statute or administrative rule to use an  
 19 address that would otherwise be confidential under this  
 20 article; and

21 (2) may use the confidential address only for the statutory or  
 22 administrative purpose identified under subdivision (1).

