

SENATE BILL No. 470

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8.

Synopsis: Candidate qualifications. Provides that a person who is convicted of certain felonies is eligible to hold and be a candidate for an elected office beginning ten years after the person has been discharged from all requirements imposed as a result of the person's conviction. Provides that a person convicted of other felonies is not eligible to hold or be a candidate for an elected office.

Effective: July 1, 2003.

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January 21, 2003, read first time and referred to Committee on Elections and Civic Affairs.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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SENATE BILL No. 470



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 3-8-1-5, AS AMENDED BY P.L.176-1999,
2 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 5. (a) This section does not apply to a candidate
4 for federal office.

5 (b) A person is disqualified from holding or being a candidate for
6 an elected office if **any of the following applies to** the person:

7 (1) **The person** gave or offered a bribe, threat, or reward to
8 procure the person's election, as provided in Article 2, Section 6
9 of the Constitution of the State of Indiana.

10 (2) **The person** does not comply with IC 5-8-3 because of a
11 conviction for a violation of the federal laws listed in that statute.

12 ~~(3) has:~~

13 ~~(A) entered a plea of guilty or nolo contendere to; or~~

14 ~~(B) been convicted of;~~

15 ~~a felony (as defined in IC 35-50-2-1);~~

16 **(3) The person is disqualified under section 5.3 of this chapter.**

17 **(4) The person** has been removed from the office the candidate



1 seeks under Article 7, Section 11 or Article 7, Section 13 of the
2 Constitution of the State of Indiana.

3 (5) **The person** is a member of the United States armed forces on
4 active duty and prohibited by the United States Department of
5 Defense from being a candidate. ~~or~~

6 (6) **The person** is subject to:

7 (A) 5 U.S.C. 1502 (the Little Hatch Act); or

8 (B) 5 U.S.C. 7321-7326 (the Hatch Act);

9 and would violate either federal statute by becoming or remaining
10 the candidate of a political party for nomination or election to an
11 elected office or a political party office.

12 SECTION 2. IC 3-8-1-5.3 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2003]: **Sec. 5.3. (a) This section does not apply to a candidate for
15 federal office.**

16 **(b) As used in this section, "discharge date" means the most
17 recent date that all the following occurred (if applicable) with
18 respect to an individual who has been convicted of a felony:**

19 **(1) The individual was discharged from imprisonment or
20 other lawful detention.**

21 **(2) The individual has fulfilled all requirements of the
22 individual's probation.**

23 **(3) The individual has fulfilled all requirements of the
24 individual's parole.**

25 **(4) The individual is no longer subject to home detention.**

26 **(5) The individual has completed the individual's community
27 correction program.**

28 **(c) As used in this section, "disqualifying felony" refers to any
29 of the following:**

30 **(1) Murder (IC 35-42-1-1).**

31 **(2) Causing suicide (IC 35-42-1-2).**

32 **(3) Assisting suicide (IC 35-42-1-2.5).**

33 **(4) Voluntary manslaughter (IC 35-42-1-3).**

34 **(5) Reckless homicide (IC 35-42-1-5).**

35 **(6) Battery (IC 35-42-2-1).**

36 **(7) Aggravated battery (IC 35-42-2-1.5).**

37 **(8) Kidnapping (IC 35-42-3-2).**

38 **(9) Criminal confinement (IC 35-42-3-3).**

39 **(10) A felony sex offense under IC 35-42-4.**

40 **(11) Carjacking (IC 35-42-5-2).**

41 **(12) Arson (IC 35-43-1-1).**

42 **(13) Incest (IC 35-46-1-3).**

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- 1 **(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and**
- 2 **IC 35-46-1-4(a)(2)).**
- 3 **(15) Child selling (IC 35-46-1-4(d)).**
- 4 **(16) A felony involving a weapon under IC 35-47 or**
- 5 **IC 35-47.5.**
- 6 **(17) A felony relating to controlled substances under**
- 7 **IC 35-48-4.**
- 8 **(18) An offense relating to material or a performance that is**
- 9 **harmful to minors or obscene under IC 35-49-3.**
- 10 **(19) Burglary (IC 35-43-2-1).**
- 11 **(20) A felony under IC 35-44.**
- 12 **(21) A felony that is substantially equivalent to a felony listed**
- 13 **in subdivisions (1) through (20) for which the conviction was**
- 14 **entered in another state.**
- 15 **(d) As used in this section, "felony" has the meaning set forth in**
- 16 **IC 35-50-2-1.**
- 17 **(e) A person who has:**
 - 18 **(1) entered a plea of guilty or nolo contendere to; or**
 - 19 **(2) been convicted of;**
- 20 **a disqualifying felony is disqualified from holding or being a**
- 21 **candidate for an elected office.**
- 22 **(f) A person who has:**
 - 23 **(1) entered a plea of guilty or nolo contendere to; or**
 - 24 **(2) been convicted of;**
- 25 **a felony, other than a disqualifying felony, is disqualified from**
- 26 **holding or being a candidate for an elected office until ten (10)**
- 27 **years after the individual's discharge date.**
- 28 **(g) After the period of disqualification described by subsection**
- 29 **(f), a person described by subsection (f) may be a candidate for and**
- 30 **elected to an elected office if the person is otherwise eligible to be**
- 31 **a candidate for and hold the public office.**
- 32 SECTION 3. IC 3-8-2-2.5, AS AMENDED BY P.L.26-2000,
- 33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2003]: Sec. 2.5. (a) A person who desires to be a write-in
- 35 candidate for a federal, state, legislative, or local office or school board
- 36 office in a general, municipal, or school board election must file a
- 37 declaration of intent to be a write-in candidate with the officer with
- 38 whom declaration of candidacy must be filed under sections 5 and 6 of
- 39 this chapter.
- 40 (b) The declaration of intent to be a write-in candidate required
- 41 under subsection (a) must be signed before a person authorized to
- 42 administer oaths and must certify the following information:

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- 1 (1) The candidate's name must be printed or typewritten as:
 2 (A) the candidate wants the candidate's name to appear on the
 3 ballot; and
 4 (B) the candidate's name is permitted to appear on the ballot
 5 under IC 3-5-7.
 6 (2) A statement that the candidate is a registered voter and the
 7 location of the candidate's precinct and township (or ward and
 8 city or town), county, and state.
 9 (3) The candidate's complete residence address, and if the
 10 candidate's mailing address is different from the residence
 11 address, the mailing address.
 12 (4) The candidate's party affiliation or a statement that the
 13 candidate is an independent candidate (not affiliated with any
 14 party).
 15 (5) A statement of the candidate's intention to be a write-in
 16 candidate, the name of the office, including the district, and the
 17 date and type of election.
 18 (6) If the candidate is a candidate for the office of President or
 19 Vice President of the United States, a statement declaring the
 20 names of the individuals who have consented and are eligible to
 21 be the candidate's candidates for presidential electors.
 22 (7) A statement that the candidate:
 23 (A) is aware of the provisions of IC 3-9 regarding campaign
 24 finance and the reporting of campaign contributions and
 25 expenditures; and
 26 (B) agrees to comply with the provisions of IC 3-9.
 27 The candidate must separately sign the statement required by this
 28 subdivision.
 29 (8) A statement as to whether the candidate has:
 30 (A) been a candidate for state or local office in a previous
 31 primary or general election; and
 32 (B) filed all reports required by IC 3-9-5-10 for all previous
 33 candidacies.
 34 (9) If the candidate is subject to IC 3-9-1-5, a statement that the
 35 candidate has filed a campaign finance statement of organization
 36 for the candidate's principal committee or is aware that the
 37 candidate may be required to file a campaign finance statement of
 38 organization not later than noon seven (7) days after the final date
 39 to file the declaration of intent to be a write-in candidate under
 40 section 4 of this chapter.
 41 (10) If the candidate is subject to IC 3-9-1-5.5, a statement that
 42 the candidate is required to file a campaign finance statement of

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1 organization under IC 3-9 after the first of either of the following
2 occurs:

3 (A) The candidate receives more than five hundred dollars
4 (\$500) in contributions.

5 (B) The candidate makes more than five hundred dollars
6 (\$500) in expenditures.

7 (11) A statement that the candidate complies with all
8 requirements under the laws of Indiana to be a candidate for the
9 above named office, including any applicable residency
10 requirements, and that the candidate is not ineligible to be a
11 candidate due to a criminal conviction that would prohibit the
12 candidate from serving in the office. **The form for a declaration
13 of intent to be a write in candidate must list the disqualifying
14 felonies defined in IC 3-8-1-5.3. If the candidate has been
15 convicted of a felony other than a disqualifying felony, the
16 candidate must also provide the following information under
17 this subdivision:**

18 (A) **The date of the felony was committed.**

19 (B) **The date of conviction for the felony and the court in
20 which the conviction was obtained.**

21 (C) **The candidate's discharge date (as defined in
22 IC 3-8-1-5.3).**

23 (12) The candidate's signature and telephone number.

24 (c) At the time of filing the declaration of intent to be a write-in
25 candidate, the write-in candidate is considered a candidate for all
26 purposes.

27 (d) A write-in candidate must comply with the requirements under
28 IC 3-8-1 that apply to the office to which the write-in candidate seeks
29 election.

30 (e) A person may not be a write-in candidate in a contest for
31 nomination or for election to a political party office.

32 (f) A write-in candidate for the office of President or Vice President
33 of the United States must list at least one (1) candidate for presidential
34 elector and may not list more than the total number of presidential
35 electors to be chosen in Indiana.

36 (g) The commission shall provide that the form of a declaration of
37 intent to be a write-in candidate includes the following information
38 near the separate signature required by subsection (b)(7):

39 (1) The dates for filing campaign finance reports under IC 3-9.

40 (2) The penalties for late filing of campaign finance reports under
41 IC 3-9.

42 (h) A declaration of intent to be a write-in candidate must include

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1 a statement that the candidate requests the name on the candidate's
 2 voter registration record be the same as the name the candidate uses on
 3 the declaration of intent to be a write-in candidate. If there is a
 4 difference between the name on the candidate's declaration of intent to
 5 be a write-in candidate and the name on the candidate's voter
 6 registration record, the officer with whom the declaration of intent to
 7 be a write-in candidate is filed shall forward the information to the
 8 voter registration officer of the appropriate county as required by
 9 IC 3-5-7-6(e). The voter registration officer of the appropriate county
 10 shall change the name on the candidate's voter registration record to be
 11 the same as the name on the candidate's declaration of intent to be a
 12 write-in candidate.

13 SECTION 4. IC 3-8-2-7, AS AMENDED BY P.L.199-2001,
 14 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2003]: Sec. 7. (a) The declaration of each candidate required
 16 by this chapter must be signed before a person authorized to administer
 17 oaths and contain the following information:

18 (1) The candidate's name, printed or typewritten as:

19 (A) the candidate wants the candidate's name to appear on the
 20 ballot; and

21 (B) the candidate's name is permitted to appear on the ballot
 22 under IC 3-5-7.

23 (2) A statement that the candidate is a registered voter and the
 24 location of the candidate's precinct and township (or ward and
 25 city or town), county, and state.

26 (3) The candidate's complete residence address, and if the
 27 candidate's mailing address is different from the residence
 28 address, the mailing address.

29 (4) A statement of the candidate's party affiliation. For purposes
 30 of this subdivision, a candidate is considered to be affiliated with
 31 a political party only if any of the following applies:

32 (A) The most recent primary election in which the candidate
 33 voted was a primary election held by the party with which the
 34 candidate claims affiliation.

35 (B) The candidate has never voted in a primary election and
 36 claims a party affiliation.

37 (C) The county chairman of:

38 (i) the political party with which the candidate claims
 39 affiliation; and

40 (ii) the county in which the candidate resides;

41 certifies that the candidate is a member of the political party.

42 (5) A statement that the candidate complies with all requirements

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1 under the laws of Indiana to be a candidate for the above named
 2 office, including any applicable residency requirements, and that
 3 the candidate is not ineligible to be a candidate due to a criminal
 4 conviction that would prohibit the candidate from serving in the
 5 office. **The form for a declaration of candidacy must list the**
 6 **disqualifying felonies defined in IC 3-8-1-5.3. If the candidate**
 7 **has been convicted of a felony other than a disqualifying**
 8 **felony, the candidate must also provide the following**
 9 **information under this subdivision:**

10 (A) **The date the felony was committed.**

11 (B) **The date of conviction for the felony and the court in**
 12 **which the conviction was obtained.**

13 (C) **The candidate's discharge date (as defined in**
 14 **IC 3-8-1-5.3).**

15 (6) A request that the candidate's name be placed on the official
 16 primary ballot of that party to be voted on, the office for which the
 17 candidate is declaring, and the date of the primary election.

18 (7) A statement that the candidate:

19 (A) is aware of the provisions of IC 3-9 regarding campaign
 20 finance and the reporting of campaign contributions and
 21 expenditures; and

22 (B) agrees to comply with the provisions of IC 3-9.

23 The candidate must separately sign the statement required by this
 24 subdivision.

25 (8) A statement as to whether the candidate has been a candidate
 26 for state or local office in a previous primary or general election
 27 and whether the candidate has filed all reports required by
 28 IC 3-9-5-10 for all previous candidacies.

29 (9) If the candidate is subject to IC 3-9-1-5, a statement that the
 30 candidate has filed a campaign finance statement of organization
 31 for the candidate's principal committee or is aware that the
 32 candidate may be required to file a campaign finance statement of
 33 organization not later than noon seven (7) days after the final date
 34 to file the declaration of candidacy under section 11 of this
 35 chapter.

36 (10) The candidate's signature.

37 (b) The commission shall provide that the form of a declaration of
 38 candidacy includes the following information near the separate
 39 signature required by subsection (a)(7):

40 (1) The dates for filing campaign finance reports under IC 3-9.

41 (2) The penalties for late filing of campaign finance reports under
 42 IC 3-9.

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1 (c) A declaration of candidacy must include a statement that the
 2 candidate requests the name on the candidate's voter registration record
 3 be the same as the name the candidate uses on the declaration of
 4 candidacy. If there is a difference between the name on the candidate's
 5 declaration of candidacy and the name on the candidate's voter
 6 registration record, the officer with whom the declaration of candidacy
 7 is filed shall forward the information to the voter registration officer of
 8 the appropriate county as required by IC 3-5-7-6(e). The voter
 9 registration officer of the appropriate county shall change the name on
 10 the candidate's voter registration record to be the same as the name on
 11 the candidate's declaration of candidacy.

12 SECTION 5. IC 3-8-5-10.5, AS AMENDED BY P.L.167-2001,
 13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2003]: Sec. 10.5. (a) A person who desires to be nominated
 15 for a town office by a major political party must file a declaration of
 16 candidacy with the circuit court clerk of the county containing the
 17 greatest percentage of population of the town.

18 (b) A declaration of candidacy must be filed:

19 (1) not earlier than January 1; and

20 (2) not later than:

21 (A) noon August 1 before a municipal election if the town
 22 nominates its candidates by convention; and

23 (B) the date that a declaration of candidacy must be filed under
 24 IC 3-8-2-4 if the town nominates its candidates by a primary
 25 election.

26 (c) The declaration must be subscribed and sworn to (or affirmed)
 27 before a notary public or other person authorized to administer oaths.

28 (d) The declaration of each candidate required by this section must
 29 certify the following information:

30 (1) The candidate's name, printed or typewritten as:

31 (A) the candidate wants the candidate's name to appear on the
 32 ballot; and

33 (B) the candidate's name is permitted to appear on the ballot
 34 under IC 3-5-7.

35 (2) That the candidate is a registered voter and the location of the
 36 candidate's precinct and township (or the ward and town), county,
 37 and state.

38 (3) The candidate's complete residence address and the
 39 candidate's mailing address if the mailing address is different
 40 from the residence address.

41 (4) The candidate's party affiliation and the office to which the
 42 candidate seeks nomination, including the district designation if

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1 the candidate is seeking a town legislative body seat.

2 (5) That the candidate complies with all requirements under the
3 laws of Indiana to be a candidate for the above named office,
4 including any applicable residency requirements, and is not
5 ineligible to be a candidate due to a criminal conviction that
6 would prohibit the candidate from serving in the office. **The form
7 for a declaration of candidacy must list the disqualifying
8 felonies defined in IC 3-8-1-5.3. If the candidate has been
9 convicted of a felony other than a disqualifying felony, the
10 candidate must also provide the following information under
11 this subdivision:**

12 (A) **The date the felony was committed.**

13 (B) **The date of conviction for the felony and the court in
14 which the conviction was obtained.**

15 (C) **The candidate's discharge date (as defined in
16 IC 3-8-1-5.3).**

17 (6) The candidate's signature.

18 (e) Immediately after the deadline for filing, the circuit court clerk
19 shall do all of the following:

20 (1) Certify to the town clerk-treasurer and release to the public a
21 list of the candidates of each political party for each office. The
22 list shall indicate any candidates of a political party nominated for
23 an office under this chapter because of the failure of any other
24 candidates of that political party to file a declaration of candidacy
25 for that office.

26 (2) Post a copy of the list in a prominent place in the circuit court
27 clerk's office.

28 (3) File a copy of each declaration of candidacy with the town
29 clerk-treasurer.

30 (f) A person who files a declaration of candidacy for an elected
31 office for which a per diem or salary is provided for by law is
32 disqualified from filing a declaration of candidacy for another office for
33 which a per diem or salary is provided for by law until the original
34 declaration is withdrawn.

35 (g) A person who files a declaration of candidacy for an elected
36 office may not file a declaration of candidacy for that office in the same
37 year as a member of a different political party until the original
38 declaration is withdrawn.

39 (h) A person who files a declaration of candidacy under this section
40 may file a written notice withdrawing the person's declaration of
41 candidacy in the same manner as the original declaration was filed, if
42 the notice of withdrawal is filed not later than:

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- 1 (1) noon August 1 before the municipal election if the town
- 2 nominates its candidates by convention; and
- 3 (2) the date that a declaration of candidacy may be withdrawn
- 4 under IC 3-8-2-20 if the town nominates its candidates in a
- 5 primary election.

6 (i) A declaration of candidacy must include a statement that the
 7 candidate requests the name on the candidate's voter registration record
 8 be the same as the name the candidate uses on the declaration of
 9 candidacy. If there is a difference between the name on the candidate's
 10 declaration of candidacy and the name on the candidate's voter
 11 registration record, the officer with whom the declaration of candidacy
 12 is filed shall forward the information to the voter registration officer of
 13 the appropriate county as required by IC 3-5-7-6(e). The voter
 14 registration officer of the appropriate county shall change the name on
 15 the candidate's voter registration record to be the same as the name on
 16 the candidate's declaration of candidacy.

17 SECTION 6. IC 3-8-6-12, AS AMENDED BY P.L.26-2000,
 18 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2003]: Sec. 12. (a) A petition of nomination for an office filed
 20 under section 10 of this chapter must be filed with and certified by the
 21 person with whom a declaration of candidacy must be filed under
 22 IC 3-8-2.

23 (b) The petition of nomination must be accompanied by the
 24 following:

- 25 (1) The candidate's written consent to become a candidate.
- 26 (2) A statement that the candidate:
 - 27 (A) is aware of the provisions of IC 3-9 regarding campaign
 - 28 finance and the reporting of campaign contributions and
 - 29 expenditures; and
 - 30 (B) agrees to comply with the provisions of IC 3-9.

31 The candidate must separately sign the statement required by this
 32 subdivision.

33 (3) If the candidate is subject to IC 3-9-1-5, a statement by the
 34 candidate that the candidate has filed a campaign finance
 35 statement of organization under IC 3-9-1-5 or is aware that the
 36 candidate may be required to file a campaign finance statement of
 37 organization not later than noon seven (7) days after the final date
 38 for filing a petition for nomination under section 10 of this
 39 chapter.

40 (4) If the candidate is subject to IC 3-9-1-5.5, a statement by the
 41 candidate that the candidate is aware of the requirement to file a
 42 campaign finance statement of organization under IC 3-9 after the

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1 first of either of the following occurs:

2 (A) The candidate receives more than five hundred dollars
3 (\$500) in contributions.

4 (B) The candidate makes more than five hundred dollars
5 (\$500) in expenditures.

6 (5) A statement indicating whether or not each candidate:

7 (A) has been a candidate for state or local office in a previous
8 primary or general election; and

9 (B) has filed all reports required by IC 3-9-5-10 for all
10 previous candidacies.

11 (6) A statement that each candidate is legally qualified to hold the
12 office that the candidate seeks, including any applicable residency
13 requirements and restrictions on service due to a criminal
14 conviction. **The form for a petition of nomination must list the**
15 **disqualifying felonies defined in IC 3-8-1-5.3. If the candidate**
16 **has been convicted of a felony other than a disqualifying**
17 **felony, the candidate must also provide the following**
18 **information under this subdivision:**

19 (A) **The date the felony was committed.**

20 (B) **The date of conviction for the felony and the court in**
21 **which the conviction was obtained.**

22 (C) **The candidate's discharge date (as defined in**
23 **IC 3-8-1-5.3).**

24 (7) If the petition is filed with the secretary of state for an office
25 not elected by the electorate of the whole state, a statement signed
26 by the circuit court clerk of each county in the election district of
27 the office sought by the individual.

28 (8) Any statement of economic interests required under
29 IC 3-8-1-33.

30 (c) The statement required under subsection (b)(7) must:

31 (1) be certified by each circuit court clerk; and

32 (2) indicate the number of votes cast for secretary of state:

33 (A) at the last election for secretary of state; and

34 (B) in the part of the county included in the election district of
35 the office sought by the individual filing the petition.

36 (d) The secretary of state shall, by noon August 20, certify each
37 petition of nomination filed in the secretary of state's office to the
38 appropriate county.

39 (e) The commission shall provide that the form of a petition of
40 nomination includes the following information near the separate
41 signature required by subsection (b)(2):

42 (1) The dates for filing campaign finance reports under IC 3-9.

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1 (2) The penalties for late filing of campaign finance reports under
2 IC 3-9.
3 (f) A candidate's consent to become a candidate must include a
4 statement that the candidate requests the name on the candidate's voter
5 registration record be the same as the name the candidate uses on the
6 consent to become a candidate. If there is a difference between the
7 name on the candidate's consent to become a candidate and the name
8 on the candidate's voter registration record, the officer with whom the
9 consent to become a candidate is filed shall forward the information to
10 the voter registration officer of the appropriate county as required by
11 IC 3-5-7-6(e). The voter registration officer of the appropriate county
12 shall change the name on the candidate's voter registration record to be
13 the same as the name on the candidate's consent to become a candidate.

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