

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 132 be amended to read as follows:

- 1           Page 1, delete lines 1 through 17, begin a new paragraph and insert:  
2           "SECTION 1. IC 3-11-4-2, AS AMENDED BY P.L.126-2002,  
3           SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4           UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee  
5           ballot must apply to the county election board for an official absentee  
6           ballot. **Except as provided in subsection (b), the voter must sign the**  
7           **absentee ballot application.**  
8           (b) **If a voter with disabilities is unable to sign the absentee**  
9           **ballot application and the voter has not designated an individual**  
10           **to serve as attorney in fact for the voter, the county election**  
11           **board may designate an individual to sign the application on behalf**  
12           **of the voter.** If an individual applies for an absentee ballot as the  
13           properly authorized attorney in fact for a voter, the attorney in fact  
14           must attach a copy of the power of attorney to the application.  
15           (c) **A person may not provide an individual with an application**  
16           **for an absentee ballot with the following information already**  
17           **printed or otherwise set forth on the application when provided to**  
18           **the individual:**  
19               (1) **The name of the individual.**  
20               (2) **The registration address of the individual.**  
21               (3) **The mailing address of the individual.**  
22               (4) **The date of birth of the individual.**  
23               (5) **The voter identification number of the individual.**  
24               (6) **The address to which the absentee ballot would be mailed,**  
25               **if different from the voter registration address of the**  
26               **individual.**  
27               (7) **In a primary election, the major political party ballot**  
28               **requested by the individual.**  
29               (8) **In a primary or general election, the types of absentee**

- 1            **ballots requested by the individual.**
- 2            **(9) The reason why the individual is entitled to vote an**
- 3            **absentee ballot:**
- 4                   **(A) by mail; or**
- 5                   **(B) before an absentee voter board (other than an**
- 6                       **absentee voter board located in the office of the circuit**
- 7                       **court clerk or a satellite office);**
- 8                   **in accordance with IC 3-11-4-18, IC 3-11-10-24, or**
- 9                   **IC 3-11-10-25.**
- 10          **(d) If the county election board determines that an absentee**
- 11          **ballot application does not comply with subsection (c), the board**
- 12          **shall deny the application under section 17.5 of this chapter.**
- 13          **(e) A person who assists an individual in completing an**
- 14          **absentee ballot application shall state the following information on**
- 15          **the application:**
- 16                **(1) The full name, residence and mailing address, and**
- 17                **daytime and evening telephone numbers (if any) of the**
- 18                **individual submitting the application.**
- 19                **(2) The date and location at which this assistance was**
- 20                **provided.**
- 21                **(3) That the individual providing the assistance has complied**
- 22                **with the Indiana laws governing the submission of absentee**
- 23                **ballot applications.**
- 24                **(4) That the individual has no knowledge or reason to believe**
- 25                **that the individual submitting the application:**
- 26                        **(A) is ineligible to vote or ineligible to cast an absentee**
- 27                        **ballot; or**
- 28                        **(B) did not properly complete and sign the application.**
- 29          **(f) A person who receives a completed absentee ballot**
- 30          **application from the individual who has applied for the absentee**
- 31          **ballot shall file the application with the appropriate county**
- 32          **election board not later than:**
- 33                **(1) noon seven (7) days after the individual receives the**
- 34                **application; or**
- 35                **(2) the deadline set by Indiana law for filing the application**
- 36                **with the board;**
- 37          **whichever occurs first.**
- 38          **(g) An individual filing an absentee ballot application received**
- 39          **from another individual under subsection (e) must sign an**
- 40          **affidavit at the time of filing the application. The affidavit must be**
- 41          **in a form prescribed by the commission. The form must include**
- 42          **the following:**
- 43                **(1) A statement of the full name, residence and mailing**
- 44                **address, and daytime and evening telephone numbers (if any)**

- 1           **of the individual submitting the application.**
- 2           **(2) A statement of:**
- 3               **(A) the date the absentee ballot application was executed;**
- 4               **and**
- 5               **(B) the location where the absentee ballot application was**
- 6               **executed.**
- 7           **(3) A statement that the individual filing the affidavit has**
- 8           **complied with the Indiana laws governing the submission of**
- 9           **absentee ballot applications.**
- 10           **(4) A statement that the individual has no knowledge or**
- 11           **reason to believe that the individual whose application is to**
- 12           **be filed:**
- 13               **(A) is ineligible to vote or to cast an absentee ballot; or**
- 14               **(B) did not properly complete and sign the application.**
- 15           **(5) A statement that the individual is executing the affidavit**
- 16           **under the penalties of perjury.**
- 17           **(6) A statement setting forth the penalties for perjury.**
- 18           **(h) The county election board shall record the date and time of**
- 19           **the filing of the affidavit and provide the individual with a file**
- 20           **stamped copy of the affidavit without collecting any copying fee.**
- 21           SECTION 2. IC 3-11-4-5.1 IS AMENDED TO READ AS
- 22           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The
- 23           commission shall prescribe the form of an application for an absentee
- 24           ballot.
- 25           **(b) This subsection does not apply to the form for an absentee**
- 26           **ballot application to be submitted by an absent uniformed services**
- 27           **voter or overseas voter that contains a standardized oath for those**
- 28           **voters. The form of the application for an absentee ballot must:**
- 29               **(1) require the applicant to swear to or affirm under the**
- 30               **penalties of perjury that all of the information set forth on**
- 31               **the application is true to the best of the applicant's**
- 32               **knowledge and belief;**
- 33               **(2) require a person who assisted with the completion of the**
- 34               **application to swear to or affirm under the penalties of**
- 35               **perjury the statements set forth in section 2(e) of this**
- 36               **chapter; and**
- 37               **(3) set forth the penalties for perjury.**
- 38           **(c) The form prescribed by the commission shall require that a voter**
- 39           **who:**
- 40               **(1) requests an absentee ballot; and**
- 41               **(2) is eligible to vote in the precinct under IC 3-10-11 or**
- 42               **IC 3-10-12;**
- 43           **must include the affidavit required by IC 3-10-11 or a written**
- 44           **affirmation described in IC 3-10-12.**

1           **(d) The form prescribed by the commission must require that**  
 2 **a voter who requests an absentee ballot to vote by mail must state**  
 3 **a specific reason on the application to set forth the basis for the**  
 4 **voter's reasonable expectation of being absent from the county on**  
 5 **election day during the entire twelve (12) hours that the polls are**  
 6 **open.**

7           SECTION 3. IC 3-11-4-17.5, AS AMENDED BY P.L.209-2003,  
 8 SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an  
 10 absentee ballot, the county election board **(or the absentee voter**  
 11 **board in the office of the circuit court clerk)** shall determine if:

12           **(1) the applicant is a voter of the precinct in which the applicant**  
 13 **resides, according to the records of the county voter registration**  
 14 **office;**

15           **(2) the information set forth on the application appears to be**  
 16 **true; and**

17           **(3) the application has been completed and filed in**  
 18 **accordance with Indiana and federal law.**

19 **If the members of the absentee voter board are unable to agree**  
 20 **about any of the determinations described in subdivisions (1)**  
 21 **through (3), the issue shall be referred to the county election**  
 22 **board for determination.**

23           **(b) If:**

24           **(1) the applicant is not a voter of the precinct according to the**  
 25 **registration record; or if**

26           **(2) the application as completed and filed:**

27           **(A) contains a false statement; or**

28           **(B) does not otherwise comply with ~~this chapter~~; Indiana or**  
 29 **federal law;**

30 **as alleged under section 18.5 of this chapter,** the county election  
 31 board shall deny the application.

32 ~~(b)~~ **(c) This subsection applies after December 31, 2003,** to an  
 33 absentee ballot application submitted by an absent uniformed services  
 34 voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d),  
 35 if the application is denied, the county election board shall provide the  
 36 voter with the reasons for the denial of the application. Unless the voter  
 37 is present when the board denies the application, the board shall send a  
 38 written notice stating the reasons for the denial to the voter. The notice  
 39 must be sent:

40           **(1) not later than forty-eight (48) hours after the application is**  
 41 **denied; and**

42           **(2) to the voter at the address at which the voter requested that**  
 43 **the absentee ballot be mailed.**

44 ~~(c)~~ **This subsection applies after December 31, 2003: (d) If the**  
 45 county election board determines that the applicant is a voter of the

1 precinct under subsection (a), the board shall then determine whether:

2 (1) the applicant was required to file any additional documentation  
3 under IC 3-7-33-4.5; and

4 (2) the applicant has filed this documentation according to the  
5 records of the county voter registration office.

6 If the applicant has not filed the required documentation, the county  
7 election board shall approve the application if the application otherwise  
8 complies with this chapter. The board shall add a notation to the  
9 application and to the record compiled under section 17 of this chapter  
10 indicating that the applicant will be required to provide additional  
11 documentation to the county voter registration office under  
12 IC 3-7-33-4.5 before the absentee ballot may be counted.

13 ~~(d)~~ (e) If the applicant:

14 (1) is a voter of the precinct according to the registration record;  
15 (2) states on the application that the applicant resides at an address  
16 that is within the same precinct but is not the same address shown  
17 on the registration record; and

18 (3) after December 31, 2005, provides a voter identification  
19 number on the application to permit transfer of registration under  
20 IC 3-7-13-13;

21 the county election board shall direct the county voter registration office  
22 to transfer the applicant's voter registration address to the address  
23 within the precinct shown on the application. The applicant's application  
24 for an absentee ballot shall be approved if the applicant is otherwise  
25 eligible to receive the ballot under this chapter.

26 SECTION 4. IC 3-11-4-18, AS AMENDED BY P.L.209-2003,  
27 SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 UPON PASSAGE]: Sec. 18. (a) If a voter satisfies any of the ~~following~~  
29 **qualifications described in IC 3-11-10-24 that entitle a voter to**  
30 **cast an absentee ballot by mail**, the county election board shall, at the  
31 request of the voter, mail the official ballot, postage fully prepaid, to the  
32 voter at the address stated in the application.

33 ~~(1) The voter will be absent from the county on election day.~~

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

- 36 ~~(A) a precinct election officer under IC 3-6-6;~~
- 37 ~~(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;~~
- 38 ~~(C) a challenger or pollbook holder under IC 3-6-7; or~~
- 39 ~~(D) a person employed by an election board to administer the~~  
40 ~~election for which the absentee ballot is requested.~~

41 ~~(3) The voter will be confined on election day to the voter's~~  
42 ~~residence, to a health care facility, or to a hospital because of an~~  
43 ~~illness or injury.~~

44 ~~(4) The voter is a voter with disabilities.~~

45 ~~(5) The voter is an elderly voter.~~

46 ~~(6) The voter is prevented from voting due to the voter's care of~~

1           an individual confined to a private residence because of illness or  
2           injury:

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

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

7           (b) ~~This subsection applies after December 31, 2003.~~ If the county  
8           election board mails an absentee ballot to a voter required to file  
9           additional documentation with the county voter registration office  
10          before voting by absentee ballot under this chapter, the board shall  
11          include a notice to the voter in the envelope mailed to the voter under  
12          section 20 of this chapter. The notice must inform the voter that the  
13          voter must file the additional documentation required under  
14          IC 3-7-33-4.5 with the county voter registration office not later than  
15          noon on election day for the absentee ballot to be counted. The  
16          commission shall prescribe the form of this notice under IC 3-5-4-8.

17          (c) **Except as provided in section 18.5 of this chapter,** the ballot  
18          shall be mailed:

19               (1) on the day of the receipt of the voter's application; or

20               (2) not more than five (5) days after the date of delivery of the  
21               ballots under section 15 of this chapter;

22          whichever is later.

23          (d) In addition to the ballot mailed under subsection (c), the county  
24          election board shall mail a special absentee ballot for overseas voters.

25          (e) **Except as provided in section 18.5 of this chapter,** the ballot  
26          described in subsection (d):

27               (1) must be mailed:

28                       (A) on the day of the receipt of the voter's application; or

29                       (B) not more than five (5) days after the date of delivery of the  
30                       ballots under section 13(b) of this chapter;

31          whichever is later; and

32               (2) may not be mailed after the absentee ballots described by  
33               section 13(a) of this chapter have been delivered to the circuit  
34               court clerk or the clerk's authorized deputy.

35          (f) This subsection applies after December 31, 2005. As required by  
36          42 U.S.C. 15481, an election board **must shall** establish a voter  
37          education program (specific to a paper ballot or optical scan ballot card  
38          provided as an absentee ballot under this chapter) to notify a voter of  
39          the effect of casting multiple ballots for a single office.

40          (g) This subsection applies after December 31, 2005. As provided  
41          by 42 U.S.C. 15481, when an absentee ballot is mailed under this  
42          section, the mailing must include:

43               (1) information concerning the effect of casting multiple votes for  
44               an office; and

45               (2) instructions on how to correct the ballot before the ballot is  
46               cast and counted, including the issuance of replacement ballots.

1 SECTION 5. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON  
 3 PASSAGE]: **Sec. 18.5. (a) Upon receipt of an absentee ballot  
 4 application, a member of the county election board or a member  
 5 of an absentee voter board may file an affidavit with the county  
 6 election board alleging that the application:**

- 7 (1) is not submitted by a voter of the precinct;  
 8 (2) contains a false statement; or  
 9 (3) has not been executed or filed in accordance with Indiana  
 10 or federal law.

11 (b) The affidavit must be in a form prescribed by the  
 12 commission and state the following:

- 13 (1) The name and title of the individual filing the affidavit.  
 14 (2) A brief statement of the facts known or believed by the  
 15 individual regarding why:  
 16 (A) the applicant is not a voter of the precinct;  
 17 (B) the application contains a false statement; or  
 18 (C) the application has not been executed or filed in  
 19 accordance with Indiana or federal law.  
 20 (3) That the individual is executing the affidavit under the  
 21 penalties of perjury.  
 22 (4) The penalties for perjury.

23 (c) Upon the filing of the affidavit, the approval or denial of the  
 24 application shall be referred to the county election board, which  
 25 shall promptly conduct a hearing on the matter.

26 (d) The county election board may act under IC 3-6-5-31 to  
 27 refer the matter to the appropriate prosecuting attorney.

28 SECTION 6. IC 3-11-4-21, AS AMENDED BY P.L.209-2003,  
 29 SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 UPON PASSAGE]: **Sec. 21. (a) On the other side of the envelope  
 31 required by section 20 of this chapter shall be printed an affidavit in  
 32 conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms  
 33 under penalty of perjury that the following information is true:**

- 34 (1) The name of the precinct and township (or ward and city or  
 35 town).  
 36 (2) That the voter is:  
 37 (A) a resident of; or  
 38 (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in;  
 39 the precinct.  
 40 (3) The voter's complete residence address, including the name of  
 41 the city or town and county.  
 42 (4) That the voter is entitled to vote in the precinct, the type of  
 43 election to be held, and the date of the election.  
 44 (5) That:  
 45 (A) the voter has personally marked the enclosed ballot or

1 ballots in secret and has enclosed them in this envelope and  
 2 sealed them without exhibiting them to any other person;  
 3 (B) the voter personally marked the enclosed ballot or ballots,  
 4 enclosed them in this envelope, and sealed them with the  
 5 assistance of an individual whose name is listed on the envelope  
 6 and who affirms under penalty of perjury that the voter was  
 7 not coerced or improperly influenced by the individual assisting  
 8 the voter or any other person, in a manner prohibited by state  
 9 or federal law, to cast the ballot for or against any candidate,  
 10 political party, or public question; or  
 11 (C) as the properly authorized attorney in fact for the  
 12 undersigned under IC 30-5-5-14, the attorney in fact affirms  
 13 the voter personally marked the enclosed ballot or ballots in  
 14 secret and enclosed them in this envelope and sealed them  
 15 without exhibiting them to the attorney in fact or to any other  
 16 person.

17 (6) The date and the voter's signature.

18 (b) If the affidavit is signed by an attorney in fact, the name of the  
 19 attorney in fact must be indicated.

20 (c) A guardian or conservator of an individual may not sign an  
 21 affidavit for the individual under this section unless the guardian or  
 22 conservator also holds a power of attorney authorizing the guardian or  
 23 conservator to sign the affidavit.

24 **(d) The side of the envelope containing this affidavit must also**  
 25 **set forth the penalties for perjury.**

26 SECTION 7. IC 3-11-10-2 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter voting  
 28 by absentee ballot may mark a ballot with a pen or a lead pencil.

29 **(b) A person may not engage in electioneering (as defined by**  
 30 **IC 3-14-3-16) in the presence of a voter whom the person knows**  
 31 **possesses an absentee ballot provided to the voter in accordance**  
 32 **with Indiana law.**

33 SECTION 8. IC 3-11-10-24, AS AMENDED BY P.L.126-2002,  
 34 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 UPON PASSAGE]: Sec. 24. (a) Except as provided in subsection (b),  
 36 a voter who satisfies any of the following is entitled to vote by mail:

37 (1) The voter ~~will be~~ **has a specific, reasonable expectation of**  
 38 **being absent from the county on election day during the twelve**  
 39 **(12) hours that the polls are open and requests that the**  
 40 **absentee ballot be mailed to an address that is not located**  
 41 **within the county where the voter resides.**

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

- 44 (A) a precinct election officer under IC 3-6-6;  
 45 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;  
 46 (C) a challenger or pollbook holder under IC 3-6-7; or

- 1 (D) a person employed by an election board to administer the  
 2 election for which the absentee ballot is requested.
- 3 (3) The voter will be confined on election day to the voter's  
 4 residence, to a health care facility, or to a hospital because of an  
 5 illness or injury **during the twelve (12) hours that the polls are**  
 6 **open.**
- 7 (4) The voter is a voter with disabilities.
- 8 (5) The voter is an elderly voter.
- 9 (6) The voter is prevented from voting due to the voter's care of  
 10 an individual confined to a private residence because of illness or  
 11 injury **during the twelve (12) hours that the polls are open.**
- 12 (7) The voter is scheduled to work at the person's regular place of  
 13 employment during the entire twelve (12) hours that the polls are  
 14 open.
- 15 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 16 **(9) The voter is prevented from voting due to observance of**  
 17 **a religious discipline or religious holiday during the twelve**  
 18 **(12) hours that the polls are open.**
- 19 (b) A voter with disabilities who:
- 20 (1) is unable to make a voting mark on the ballot or sign the  
 21 absentee ballot secrecy envelope; and
- 22 (2) requests that the absentee ballot be delivered to an address  
 23 within Indiana;
- 24 must vote before an absentee voter board under section 25(b) of this  
 25 chapter.
- 26 (c) **If a voter receives an absentee ballot by mail, the voter**  
 27 **shall personally mark the ballot in secret and seal the marked**  
 28 **ballot inside the envelope provided by the county election board**  
 29 **for that purpose. The voter shall then deposit the sealed envelope**  
 30 **in the United States mail for delivery to the county election board**  
 31 **or may authorize a member of the voter's household or the**  
 32 **individual designated as the voter's attorney in fact to deposit the**  
 33 **envelope in the United States mail or deliver the sealed envelope**  
 34 **in person to the county election board.**
- 35 (d) **If a member of the voter's household or the voter's**  
 36 **attorney in fact delivers the sealed envelope containing a voter's**  
 37 **absentee ballot to the county election board, the individual**  
 38 **delivering the ballot shall complete an affidavit in a form**  
 39 **prescribed by the commission. The affidavit must contain the**  
 40 **following information:**
- 41 (1) **The name and residence address of the voter whose**  
 42 **absentee ballot is being delivered.**
- 43 (2) **A statement of the full name, residence and mailing**  
 44 **address, and daytime and evening telephone numbers (if any)**  
 45 **of the individual delivering the absentee ballot.**

1           **(3) A statement indicating whether the individual is a**  
 2           **member of the voter's household or is the attorney in fact**  
 3           **for the voter. If the individual is the attorney in fact for the**  
 4           **voter, the individual must attach a copy of the power of**  
 5           **attorney for the voter, unless a copy of this document has**  
 6           **already been filed with the county election board.**

7           **(4) The date and location at which the absentee ballot was**  
 8           **delivered by the voter to the individual delivering the ballot**  
 9           **to the county election board.**

10           **(5) A statement that the individual delivering the absentee**  
 11           **ballot has complied with Indiana laws governing absentee**  
 12           **ballots.**

13           **(6) A statement that the individual is executing the affidavit**  
 14           **under the penalties of perjury.**

15           **(7) A statement setting forth the penalties for perjury.**

16           **(e) The county election board shall record the date and time**  
 17           **that the affidavit under subsection (d) was filed with the board.**

18           **(f) After a voter has mailed or delivered an absentee ballot to the**  
 19           **office of the circuit court clerk, the voter may not recast a ballot,**  
 20           **except as provided in:**

- 21           (1) section 1.5 of this chapter; or  
 22           (2) section 33 of this chapter.

23           SECTION 9. IC 3-11-10-25, AS AMENDED BY P.L.209-2003,  
 24           SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25           UPON PASSAGE]: Sec. 25. (a) A voter who votes by absentee ballot  
 26           because of:

- 27           (1) illness or injury; or  
 28           (2) caring for a confined person at a private residence;  
 29           and who is within the county on election day may vote before an  
 30           absentee voter board or by mail.

31           (b) If requested by a voter described in subsection (a) or by a voter  
 32           with disabilities whose precinct is not accessible to voters with  
 33           disabilities, an absentee voter board shall visit the voter's place of  
 34           confinement, the residence of the voter with disabilities, or the private  
 35           residence:

- 36           (1) during the regular office hours of the circuit court clerk;  
 37           (2) at a time agreed to by the board and the voter;  
 38           (3) on any of the twelve (12) days immediately before election  
 39           day; and  
 40           (4) only once before an election, unless:  
 41           (A) the confined voter is unavailable at the time of the board's  
 42           first visit due to a medical emergency; or  
 43           (B) the board, in its discretion, decides to make an additional  
 44           visit.

45           (c) This subsection applies to a voter confined due to illness or

1 injury. An absentee voter board may not be denied access to the voter's  
 2 place of confinement if the board is present at the place of confinement  
 3 at a time:

- 4 (1) agreed to by the board and the voter; and  
 5 (2) during the regular office hours of the circuit court clerk. A  
 6 person who knowingly violates this subsection commits  
 7 obstruction or interference with an election officer in the  
 8 discharge of the officer's duty, a violation of IC 3-14-3-4.

9 (d) The county election board, by unanimous vote of the board's  
 10 entire membership, may authorize an absentee voter board to visit a  
 11 voter who is confined due to illness or injury and will be outside of the  
 12 county on election day in accordance with the procedures set forth in  
 13 subsection (b).

14 (e) This subsection applies after December 31, 2005. As provided  
 15 by 42 U.S.C. 15481, a voter casting an absentee ballot under this  
 16 section must be:

- 17 (1) permitted to verify in a private and independent manner the  
 18 votes selected by the voter before the ballot is cast and counted;  
 19 (2) provided with the opportunity to change the ballot or correct  
 20 any error in a private and independent manner before the ballot is  
 21 cast and counted, including the opportunity to receive a  
 22 replacement ballot if the voter is otherwise unable to change or  
 23 correct the ballot; and  
 24 (3) notified before the ballot is cast regarding the effect of casting  
 25 multiple votes for the office and provided an opportunity to  
 26 correct the ballot before the ballot is cast and counted.

27 (f) This subsection applies after December 31, 2005. As provided by  
 28 42 U.S.C. 15481, when an absentee ballot is provided under this  
 29 section, the board must also provide the voter with:

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

34 **(g) This subsection applies to a voter who applies to vote an**  
 35 **absentee ballot by mail. The county election board shall include a**  
 36 **copy of the Absentee Voter's Bill of Rights with any absentee**  
 37 **ballot mailed to the voter. The Absentee Voter's Bill of Rights**  
 38 **must be in a form prescribed by the commission and include the**  
 39 **following:**

- 40 **(1) A statement summarizing the rights and responsibilities**  
 41 **of the voter when casting and returning the absentee ballot.**  
 42 **(2) A summary of Indiana and federal laws concerning**  
 43 **providing assistance to the voter, completion of the ballot in**  
 44 **secret, the intimidation of voters, and the return of the**  
 45 **absentee ballot to the county election board.**  
 46 **(3) Information concerning how to report violations of the**

1           **absentee ballot and election laws.**

2           SECTION 10. IC 3-14-1-2.5 IS ADDED TO THE INDIANA CODE  
3 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON**  
4 **PASSAGE]: Sec. 2.5. (a) This section does not apply to an**  
5 **individual subject to 2 U.S.C. 441h.**

6           **(b) An individual who:**

7           **(1) is:**

8           **(A) a candidate; or**

9           **(B) an employee or agent of a candidate; and**

10          **(2) knowingly misrepresents:**

11          **(A) the individual; or**

12          **(B) an organization under the control of the individual;**  
13 **as speaking, writing, or otherwise acting for or on behalf of**  
14 **another candidate, another political party, an employee or**  
15 **agent of another candidate, or an employee or agent of**  
16 **another political party on a matter that is damaging to the**  
17 **other candidate, the other political party, or to an employee**  
18 **or agent of the other candidate or an employee or agent of**  
19 **the other political party;**

20 **commits a Class A misdemeanor.**

21          SECTION 11. IC 3-14-2-1 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who  
23 ~~recklessly writes the name of a voter on an affidavit of registration~~  
24 ~~without being personally acquainted with the voter and knowing the~~  
25 ~~voter to be the person who the voter represents the voter to be commits~~  
26 ~~a Class A misdemeanor.~~ **knowingly does any of the following**  
27 **commits a Class D felony:**

28          **(1) Conspires with an individual for the purpose of**  
29 **encouraging the individual to submit a false application for**  
30 **registration.**

31          **(2) Conspires with an individual for the purpose of**  
32 **encouraging the individual to vote illegally.**

33          **(3) Pays or offers to pay an individual for doing any of the**  
34 **following:**

35           **(A) Applying for an absentee ballot.**

36           **(B) Casting an absentee ballot.**

37           **(C) Registering to vote.**

38           **(D) Voting.**

39          **(4) Accepts the payment of any property for doing any of the**  
40 **following:**

41           **(A) Applying for an absentee ballot.**

42           **(B) Casting an absentee ballot.**

43           **(C) Registering to vote.**

44           **(D) Voting.**

1 SECTION 12. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE  
 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON  
 3 PASSAGE]: **Sec. 2.5. A person who does either of the following,**  
 4 **knowing that an individual is ineligible to register to vote or to**  
 5 **vote, commits absentee ballot fraud, a Class D felony:**

6 (1) **Solicits the individual to complete an absentee ballot**  
 7 **application.**

8 (2) **Solicits the individual to submit an absentee ballot**  
 9 **application to a county election board.**

10 SECTION 13. IC 3-14-2-3 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person who:

12 (1) subscribes the name of another person to an affidavit of  
 13 registration **or application for an absentee ballot** knowing that  
 14 the application contains a false statement; or

15 (2) subscribes the name of another person to an affidavit of  
 16 registration **or application for an absentee ballot** without writing  
 17 on it the person's own name and address as an attesting witness;

18 commits a ~~Class A misdemeanor~~ **Class D felony.**

19 SECTION 14. IC 3-14-2-5 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) A person**

21 **who recklessly destroys or fails to deliver an absentee ballot**  
 22 **application to the proper officer after the application has been**  
 23 **executed in accordance with IC 3-11-4 commits a Class A**  
 24 **misdemeanor.**

25 **(b) A person who recklessly destroys or fails to file or deliver to the**  
 26 **proper officer a registration affidavit or form of registration after ~~it~~ the**  
 27 **affidavit or form** has been executed commits a Class A misdemeanor.

28 SECTION 15. IC 3-14-2-13 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. A person who  
 30 knowingly hires or solicits another person

31 ~~(1) to come into Indiana; or~~

32 ~~(2) to go from one precinct into another a precinct~~

33 for the purpose of voting at an election **at the precinct** when the  
 34 person hired or solicited is not a voter in ~~Indiana~~ **or** the precinct  
 35 commits a Class D felony.

36 SECTION 16. IC 3-14-2-15 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A member of the

38 commission, an employee **or agent** of the ~~commission~~ **election**  
 39 **division**, or a member, **an employee, or an agent** of a county election  
 40 board who knowingly delivers a ballot to a person except in the manner  
 41 prescribed by this title commits a Class D felony.

42 SECTION 17. IC 3-14-2-16, AS AMENDED BY P.L.38-1999,  
 43 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 44 UPON PASSAGE]: Sec. 16. A person who knowingly does any of the  
 45 following commits a Class D felony:

- 1 (1) Applies for or receives a ballot in a precinct other than that  
2 precinct in which the person is entitled to vote.
- 3 (2) Except when receiving assistance under IC 3-11-9, shows a  
4 ballot after it is marked to another person in such a way as to  
5 reveal the contents of it or the name of a candidate for whom the  
6 person has voted.
- 7 (3) Except when offering assistance requested by a voter in  
8 accordance with IC 3-11-9, examines a ballot that a voter has  
9 prepared for voting or solicits the voter to show the ballot.
- 10 (4) Receives from a voter a ballot prepared by the voter for  
11 voting, except:
- 12 (A) the inspector;
- 13 (B) a member of the precinct election board temporarily acting  
14 for the inspector;
- 15 (C) a member of a county election board or an absentee voter  
16 board acting under IC 3-11-10; or
- 17 (D) a member of the voter's household or an individual  
18 designated as attorney in fact for the voter, **or an employee of**  
19 **the United States Postal Service**, when delivering an  
20 envelope containing an absentee ballot under IC 3-11-10-1.
- 21 (5) Receives a ballot from a person other than one of the poll  
22 clerks or authorized assistant poll clerks.
- 23 (6) Delivers a ballot to a voter to be voted, unless the person is:
- 24 (A) a poll clerk or authorized assistant poll clerk; or
- 25 (B) a member of a county election board or an absentee voter  
26 board acting under IC 3-11-10.
- 27 (7) Delivers a ballot (other than an absentee ballot) to an inspector  
28 that is not the ballot the voter receives from the poll clerk or  
29 assistant poll clerk.
- 30 (8) Delivers an absentee ballot to a team of absentee ballot  
31 counters appointed under IC 3-11.5-4-22, a county election board,  
32 a circuit court clerk, or an absentee voting board under  
33 IC 3-11-10 that is not the ballot cast by the absentee voter.
- 34 **(9) Delivers an absentee ballot prepared by the voter for**  
35 **voting to a county election board, except for:**
- 36 **(A) the inspector;**
- 37 **(B) a member of the precinct election board temporarily**  
38 **acting for the inspector;**
- 39 **(C) a member of a county election board or an absentee**  
40 **voter board acting under IC 3-11-10; or**
- 41 **(D) a member of the voter's household or an individual**  
42 **designated as attorney in fact for the voter, or an**  
43 **employee of the United States Postal Service, when**  
44 **delivering an envelope containing an absentee ballot**  
45 **under IC 3-11-10-1.**
- 46 **(10) Possesses an unmarked absentee ballot, unless the**

1 **person is authorized to possess the absentee ballot under this**  
 2 **title as any of the following:**

3 **(A) A printer.**

4 **(B) A county election board member.**

5 **(C) An absentee voter board member.**

6 **(D) An employee of the United States Postal Service when**  
 7 **delivering an envelope containing an absentee ballot.**

8 **(E) An individual authorized to deliver an absentee ballot**  
 9 **in a sealed envelope under IC 3-11-10-24.**

10 **(F) An absentee ballot counter under IC 3-11.5.**

11 **(G) A provisional ballot counter.**

12 **(H) A precinct election officer.**

13 **(I) The voter who applied for the absentee ballot.**

14 **(11) Completes or signs an absentee ballot application for a**  
 15 **voter, or assists a voter in completing an absentee ballot**  
 16 **application in violation of IC 3-11.**

17 SECTION 18. IC 3-14-2-18 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who  
 19 knowingly:

20 (1) does anything to enable any other person to see or know for  
 21 what ticket, candidates, or public questions the voter has voted on  
 22 a voting ~~machine;~~ **system;** or

23 (2) moves into a position, or does any other thing, to enable the  
 24 voter to see or know for what ticket, candidates, or public  
 25 questions any other voter votes on a voting ~~machine;~~ **system;**

26 commits a Class D felony.

27 SECTION 19. IC 3-14-2-24 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. A person who:

29 (1) takes a ballot legally deposited out of a ballot box **or out of a**  
 30 **voting system** for the purpose of destroying ~~it~~ **the ballot** or  
 31 substituting another **ballot** in its place;

32 (2) destroys or misplaces a ballot with the intent to substitute  
 33 another ballot for it or with the intent to prevent it from being  
 34 counted; or

35 (3) knowingly enters upon the poll books the name of a person  
 36 who has not legally voted or knowingly tallies a vote for a  
 37 candidate or on a public question not voted for by the ballot;

38 commits a Class D felony.

39 SECTION 20. IC 3-14-2-26 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A person who:

41 (1) during the progress of an election or within the time for  
 42 preparation required under this title, knowingly breaks open or  
 43 violates the seal or lock of a ballot box, envelope, container, ~~or~~  
 44 **bag, or voting system component** in which ballots have been  
 45 deposited;

1 (2) knowingly obtains a ballot box, envelope, container, ~~or~~ bag, **or**  
 2 **voting system component** that contains ballots and cancels,  
 3 withholds, or destroys a ballot;

4 (3) knowingly increases or decreases the number of ballots legally  
 5 deposited in a ballot box, envelope, container, ~~or~~ bag, **or voting**  
 6 **system component**; or

7 (4) knowingly makes a fraudulent erasure or alteration on a tally  
 8 sheet, poll book, list of voters, or election return deposited in a  
 9 ballot box, envelope, ~~or~~ bag, **or voting system component**;

10 commits a Class D felony.

11 SECTION 21. IC 3-14-2-29 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A person who  
 13 knowingly inspects a ~~voting machine or electronic~~ voting system under  
 14 IC 3-12-4-18 without obtaining authorization from the state recount  
 15 commission to conduct the inspection commits a Class D felony.

16 SECTION 22. IC 3-14-3-1.5 IS ADDED TO THE INDIANA CODE  
 17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON  
 18 PASSAGE]: **Sec. 1.5. A person who knowingly does any of the**  
 19 **following commits a Class D felony:**

20 **(1) Procures or submits voter registration applications known**  
 21 **by the person to be materially false, fictitious, or fraudulent.**

22 **(2) Procures, casts, or tabulates ballots known by the person**  
 23 **to be materially false, fictitious, or fraudulent.**

24 SECTION 23. IC 3-14-3-4 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A person who:

26 (1) knowingly obstructs or interferes with an election officer in  
 27 the discharge of the officer's duty; or

28 (2) knowingly obstructs or interferes with a voter within ~~fifty (50)~~  
 29 ~~feet of the polls;~~ **chute;**

30 commits a Class D felony.

31 **(b) A person who knowingly injures an election officer or a**  
 32 **voter:**

33 **(1) in the exercise of the officer's or voter's rights or duties;**  
 34 **or**

35 **(2) because the officer or voter has exercised the officer's or**  
 36 **voter's rights or duties;**

37 **commits a Class D felony.**

38 **(c)** A person called as a witness to testify against another for a  
 39 violation of this section is a competent witness to prove the offense  
 40 even though the person may have been a party to the violation. ~~and~~ The  
 41 person shall be compelled to testify as other witnesses. However, the  
 42 person's evidence may not be used against the person in a prosecution  
 43 growing out of matters about which the person testifies, and the person  
 44 is not liable to indictment or information for the offense.

45 SECTION 24. IC 3-14-3-7 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. An inspector or  
2 poll clerk in a precinct who, for the purpose of:

- 3 (1) deceiving a voter;
- 4 (2) causing it to be doubtful for what ticket, candidate, or public  
5 question a vote is cast; or
- 6 (3) causing it to appear that votes cast for one ticket, candidate,  
7 or public question were cast for another ticket, candidate, or  
8 public question;

9 removes, changes, or mutilates ~~a ballot label on~~ a voting ~~machine~~  
10 **system** or any part ~~thereof of a voting system~~ commits a Class D  
11 felony.

12 SECTION 25. IC 3-14-3-16, AS AMENDED BY P.L.66-2003,  
13 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering"  
15 includes expressing support or opposition to any candidate or political  
16 party or expressing approval or disapproval of any public question in  
17 any manner that could reasonably be expected to convey that support  
18 or opposition to another individual.

19 (b) A person who knowingly does any electioneering:

- 20 (1) on election day within:
  - 21 (A) the polls; or
  - 22 ~~(B) fifty (50) feet of the entrance to the polls; or~~
  - 23 **(B) the chute;**
- 24 (2) within an area in the office of the circuit court clerk used by  
25 an absentee voter board to permit an individual to cast an absentee  
26 ballot; **or**
- 27 **(3) in the presence of a voter whom the person knows**  
28 **possesses an absentee ballot provided to the voter in**  
29 **accordance with Indiana law;**

30 commits a Class A misdemeanor.

31 SECTION 26. IC 3-14-3-18, AS AMENDED BY P.L.176-1999,  
32 SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 UPON PASSAGE]: Sec. 18. (a) As used in this section, "candidate"  
34 includes an individual whom the person knows is considering becoming  
35 a candidate.

36 (b) A person who, for the purpose of influencing a voter or  
37 candidate, **does any of the following commits a Class D felony:**

- 38 (1) Seeks to enforce the payment of a debt by force or threat of  
39 force.
- 40 (2) Ejects or threatens to eject the voter or candidate from a house  
41 the voter or candidate occupies.
- 42 (3) Begins a criminal prosecution. ~~or~~
- 43 (4) Damages the business or trade of the voter or candidate.

44 ~~commits a Class D felony.~~

- 45 **(5) Communicates a threat to commit a forcible felony (as**  
46 **defined in IC 35-41-1-11) against a voter or a candidate with**

1           **the intent that the voter or candidate:**

2           **(A) engage in conduct against the voter's or candidate's**  
3           **will; or**

4           **(B) be placed in fear of retaliation for a prior lawful act as**  
5           **a voter or a candidate.**

6           SECTION 27. IC 3-14-3-19 IS AMENDED TO READ AS  
7           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. A person who,  
8           for the purpose of inducing or procuring another person to:

9           **(1) apply for or cast an absentee ballot; or**

10          **(2) vote or refrain from voting for or against a candidate or for or**  
11          **against a public question at an election or political convention;**  
12          **gives, offers, or promises to any person any money or other property**  
13          **commits a Class D felony.**

14          SECTION 28. IC 3-14-3-20 IS AMENDED TO READ AS  
15          FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. A person who,  
16          for the purpose of inducing or procuring a voter to:

17          **(1) apply for or cast an absentee ballot; or**

18          **(2) vote or refrain from voting for or against a candidate or for or**  
19          **against a public question at an election or political convention;**  
20          **receives, accepts, requests, or solicits from any person any money or**  
21          **other property commits a Class D felony.**

22          SECTION 29. IC 3-14-3-20.5 IS ADDED TO THE INDIANA  
23          CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
24          UPON PASSAGE]: **Sec. 20.5. (a) This section does not apply to**  
25          **activity subject to 18 U.S.C. 1341.**

26          **(b) An individual who knowingly:**

27          **(1) conspires to obtain property the individual would be**  
28          **entitled to receive as compensation for serving as an elected**  
29          **official by securing false or fraudulent absentee ballot**  
30          **applications or voter registration applications; and**

31          **(2) for the purpose of executing the conspiracy:**

32          **(A) causes the applications to be sent or delivered by any**  
33          **private or commercial carrier operating entirely within**  
34          **Indiana; or**

35          **(B) takes or receives from the private or commercial**  
36          **carrier the false or fraudulent applications or causes the**  
37          **applications to be delivered by the carrier to another**  
38          **person;**

39          **commits a Class D felony.**

40          SECTION 30. IC 3-14-3-21.5 IS ADDED TO THE INDIANA  
41          CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
42          UPON PASSAGE]: **Sec. 21.5. A person who knowingly or**  
43          **intentionally intimidates, threatens, or coerces an individual for:**

44          **(1) voting or attempting to vote;**

45          **(2) urging or aiding another individual to vote or attempt to**

1 **vote; or**

2 **(3) exercising any power or duty under this title concerning**  
3 **registration or voting;**

4 **commits voter intimidation, a Class D felony.**

5 SECTION 31. IC 35-44-1-1 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who:

7 (1) confers, offers, or agrees to confer on a public servant, either  
8 before or after the public servant becomes appointed, elected, or  
9 qualified, any property except property the public servant is  
10 authorized by law to accept, with intent to control the  
11 performance of an act related to the employment or function of  
12 the public servant;

13 (2) being a public servant, solicits, accepts, or agrees to accept,  
14 either before or after ~~he~~ **the person** becomes appointed, elected,  
15 or qualified, any property, except property ~~he~~ **the person** is  
16 authorized by law to accept, with intent to control the  
17 performance of an act related to ~~his~~ **the person's** employment or  
18 function as a public servant;

19 (3) confers, offers, or agrees to confer on a person any property,  
20 except property the person is authorized by law to accept, with  
21 intent to cause that person to control the performance of an act  
22 related to the employment or function of a public servant;

23 (4) solicits, accepts, or agrees to accept any property, except  
24 property ~~he~~ **the person** is authorized by law to accept, with intent  
25 to control the performance of an act related to the employment or  
26 function of a public servant;

27 (5) confers, offers, or agrees to confer any property on a person  
28 participating or officiating in, or connected with, an athletic  
29 contest, sporting event, or exhibition, with intent that the person  
30 will fail to use ~~his~~ **the person's** best efforts in connection with  
31 that contest, event, or exhibition;

32 (6) being a person participating or officiating in, or connected  
33 with, an athletic contest, sporting event, or exhibition, solicits,  
34 accepts, or agrees to accept any property with intent that ~~he~~ **the**  
35 **person** will fail to use ~~his~~ **the person's** best efforts in connection  
36 with that contest, event, or exhibition;

37 (7) being a witness or informant in an official proceeding or  
38 investigation, solicits, accepts, or agrees to accept any property,  
39 with intent to:

40 (i) **(A)** withhold any testimony, information, document, or  
41 thing;

42 (ii) **(B)** avoid legal process summoning ~~him~~ **the person** to  
43 testify or supply evidence; or

44 (iii) **(C)** absent ~~himself~~ **the person** from the proceeding or  
45 investigation to which ~~he~~ **the person** has been legally  
46 summoned; ~~or~~

1 (8) confers, offers, or agrees to confer any property on a witness  
 2 or informant in an official proceeding or investigation, with intent  
 3 that the witness or informant:

4 ~~(i)~~ (A) withhold any testimony, information, document, or  
 5 thing;

6 ~~(ii)~~ (B) avoid legal process summoning the witness or  
 7 informant to testify or supply evidence; or

8 ~~(iii)~~ (C) absent ~~himself~~ **the person** from any proceeding or  
 9 investigation to which the witness or informant has been legally  
 10 summoned; or

11 **(9) confers or offers or agrees to confer any property on an  
 12 individual for:**

13 **(A) casting a ballot or refraining from casting a ballot; or**

14 **(B) voting for a political party, for a candidate, or for or  
 15 against a public question;**

16 **in an election described in IC 3-5-1-2, or at a convention of  
 17 a political party authorized under IC 3;**

18 commits bribery, a Class C felony.

19 (b) It is no defense that the person whom the accused person sought  
 20 to control was not qualified to act in the desired way."

21 Delete pages 2 through 4.

22 Page 5, delete lines 1 through 10.

23 Page 7, line 2, delete "absentee ballot fraud under IC 3-14-2-31." and  
 24 insert "**an offense that is a felony under IC 3-14-2 (vote fraud).**"

25 Page 8, line 2, delete "absentee ballot fraud under IC 3-14-2-31." and  
 26 insert "**a felony under IC 3-14-2 (vote fraud).**"

27 Page 8, after line 5, begin a new paragraph and insert:

28 "**SECTION 34. [EFFECTIVE UPON PASSAGE] (a) The  
 29 definitions in IC 3-5-2 apply throughout this SECTION.**

30 **(b) Not later than March 31, 2004, the commission shall act  
 31 under IC 3-5-4-8 to prescribe absentee ballot application forms  
 32 that comply with IC 3-11, as amended by this act.**

33 **(c) This subsection does not apply to an absentee ballot  
 34 application form prescribed by the commission for use by an  
 35 absent uniformed services voter or overseas voter. An absentee  
 36 ballot application form prescribed by the commission before April  
 37 1, 2004, may not be used or accepted by a county election board  
 38 after March 31, 2004.**

39 **(d) This SECTION expires January 1, 2005.**

40 SECTION 35. **An emergency is declared for this act."**

41 Renumber all SECTIONS consecutively.

(Reference is to SB 132 as printed January 27, 2004.)

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Senator LAWSON C