



Reprinted
February 8, 2005

SENATE BILL No. 15

DIGEST OF SB 15 (Updated February 7, 2005 2:17 pm - DI 84)

Citations Affected: IC 3-5; IC 3-11; IC 3-12; IC 3-14; IC 35-44; noncode.

Synopsis: Absentee ballots. Provides that an absentee ballot application may not be given to a voter if any information has been filled out before the application is given to the voter. Requires an absentee ballot application to be filed within specific times. Requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. Requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury. Removes a provision concerning an absentee ballot application submitted by: (1) a confined voter; or (2) a voter caring for a confined person; in a county having a consolidated city. Establishes noon of the day before election day as the deadline for a confined voter or a voter caring for a confined person to submit an absentee ballot application by fax. Permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. Provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. Provides that a voter who is an address confidentiality program participant is entitled to cast an absentee ballot. Requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. Allows: (1) an authorized agent or employee of a county election board; or (2) an employee of a bonded courier company; to
(Continued next page)

Effective: July 1, 2005.

Lawson C, Waterman

January 4, 2005, read first time and referred to Committee on Elections and Civic Affairs.
January 24, 2005, amended, reported favorably — Do Pass.
February 3, 2005, read second time, amended, ordered engrossed; call withdrawn.
February 7, 2005, reread second time, amended, ordered engrossed.

SB 15—LS 6146/DI 75



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handle or deliver a voted or unvoted absentee ballot. Allows a person who receives a voted absentee ballot to deliver the ballot to the county election board: (1) in person, (2) by United States mail, or (3) by a bonded courier company. Makes other changes relating to absentee ballots. Removes references to the delivery of ballots printed by the election division to conform with 2004 legislation providing that the election division will no longer print ballots. Establishes new criminal offenses relating to fraud and misrepresentation in elections. Excludes from the definition of "electioneering" a person's communications to: (1) the person's spouse; (2) an incapacitated person for whom the person has been appointed guardian; and (3) a member of the person's household.

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Reprinted
February 8, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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SENATE BILL No. 15

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 3-5-8-2.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 2.5. (a) The commission shall prescribe a statement
4 known as the "Absentee Voter's Bill of Rights".**

5 **(b) The Absentee Voter's Bill of Rights must be in a form
6 prescribed by the commission and include the following:**

7 **(1) A statement summarizing the rights and responsibilities of
8 the voter when casting and returning the absentee ballot.**

9 **(2) A summary of Indiana and federal laws concerning
10 providing assistance to the voter, completion of the ballot in
11 secret, intimidation of voters, and the return of the absentee
12 ballot to the county election board.**

13 **(3) Information concerning how to report violations of the
14 absentee ballot and election laws.**

15 SECTION 2. IC 3-11-4-2 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2005]: **Sec. 2. (a) A voter who wants to vote by
17 absentee ballot must apply to the county election board for an official**

SB 15—LS 6146/DI 75+



1 absentee ballot. **Except as provided in subsection (b), the voter must**
 2 **sign the absentee ballot application.**
 3 (b) **If a voter with disabilities is unable to sign the absentee**
 4 **ballot application and the voter has not designated an individual to**
 5 **serve as attorney in fact for the voter, the county election board**
 6 **may designate an individual to sign the application on behalf of the**
 7 **voter.** If an individual applies for an absentee ballot as the properly
 8 authorized attorney in fact for a voter, the attorney in fact must attach
 9 a copy of the power of attorney to the application.
 10 (c) **A person may not provide an individual with an application**
 11 **for an absentee ballot with the following information already**
 12 **printed or otherwise set forth on the application when provided to**
 13 **the individual:**
 14 (1) **The name of the individual.**
 15 (2) **The voter registration address of the individual.**
 16 (3) **The mailing address of the individual.**
 17 (4) **The date of birth of the individual.**
 18 (5) **The voter identification number of the individual.**
 19 (6) **The address to which the absentee ballot would be mailed,**
 20 **if different from the voter registration address of the**
 21 **individual.**
 22 (7) **In a primary election, the major political party ballot**
 23 **requested by the individual.**
 24 (8) **In a primary or general election, the types of absentee**
 25 **ballots requested by the individual.**
 26 (9) **The reason why the individual is entitled to vote an**
 27 **absentee ballot:**
 28 (A) **by mail; or**
 29 (B) **before an absentee voter board (other than an absentee**
 30 **voter board located in the office of the circuit court clerk**
 31 **or a satellite office);**
 32 **in accordance with IC 3-11-4-18, IC 3-11-10-24, or**
 33 **IC 3-11-10-25.**
 34 (d) **If the county election board determines that an absentee**
 35 **ballot application does not comply with subsection (c), the board**
 36 **shall deny the application under section 17.5 of this chapter.**
 37 (e) **A person who assists an individual in completing an absentee**
 38 **ballot application shall state the following information on the**
 39 **application:**
 40 (1) **The full name, residence and mailing address, and daytime**
 41 **and evening telephone numbers (if any) of the person**
 42 **providing the assistance.**

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- 1 (2) The date and location at which this assistance was
- 2 provided.
- 3 (3) That the person providing the assistance has complied
- 4 with Indiana laws governing the submission of absentee ballot
- 5 applications.
- 6 (4) That the person has no knowledge or reason to believe that
- 7 the individual submitting the application:
- 8 (A) is ineligible to vote or to cast an absentee ballot; or
- 9 (B) did not properly complete and sign the application.
- 10 (f) A person who receives a completed absentee ballot
- 11 application from the individual who has applied for the absentee
- 12 ballot shall file the application with the appropriate county election
- 13 board not later than:
- 14 (1) noon seven (7) days after the person receives the
- 15 application; or
- 16 (2) the deadline set by Indiana law for filing the application
- 17 with the board;
- 18 whichever occurs first.
- 19 (g) A person filing an absentee ballot application received from
- 20 an individual under subsection (f) must sign an affidavit at the time
- 21 of filing the application. The affidavit must be in a form prescribed
- 22 by the commission. The form must include the following:
- 23 (1) A statement of the full name, residence and mailing
- 24 address, and daytime and evening telephone numbers (if any)
- 25 of the person submitting the application.
- 26 (2) A statement of:
- 27 (A) the date the absentee ballot application was executed;
- 28 and
- 29 (B) the location where the absentee ballot application was
- 30 executed.
- 31 (3) A statement that the person filing the affidavit has
- 32 complied with Indiana laws governing the submission of
- 33 absentee ballot applications.
- 34 (4) A statement that the person has no knowledge or reason to
- 35 believe that the individual whose application is to be filed:
- 36 (A) is ineligible to vote or to cast an absentee ballot; or
- 37 (B) did not properly complete and sign the application.
- 38 (5) A statement that the person is executing the affidavit
- 39 under the penalties of perjury.
- 40 (6) A statement setting forth the penalties for perjury.
- 41 (h) The county election board shall record the date and time of
- 42 the filing of the affidavit and provide the person signing the

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1 **affidavit with a file stamped copy of the affidavit without collecting**
2 **any copying fee.**

3 SECTION 3. IC 3-11-4-3 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~(a)~~ Except as provided in
5 subsection ~~(b)~~ and section 6 of this chapter, an application for an
6 absentee ballot must be received by the circuit court clerk (or, in a
7 county subject to IC 3-6-5.2, the director of the board of elections and
8 registration) not earlier than ninety (90) days before election day nor
9 later than the following:

10 (1) Noon on election day if the voter registers to vote under
11 IC 3-7-36-14.

12 (2) Noon on the day before election day if the voter completes the
13 application in the office of the circuit court clerk or is an absent
14 uniformed services voter or overseas voter who requests that the
15 ballot be transmitted by fax under section 6(h) of this chapter.

16 (3) Noon on the day before election day if:

17 (A) the application is a mailed, **transmitted by fax**, or hand
18 delivered application from a confined voter or voter caring for
19 a confined person; and

20 (B) the applicant requests that the absentee ballots be
21 delivered to the applicant by an absentee voter board.

22 (4) Midnight on the eighth day before election day if the
23 application:

24 (A) is a mailed application; or

25 (B) was transmitted by fax;

26 from other voters.

27 ~~(b) This subsection applies to an absentee ballot application from a~~
28 ~~confined voter or voter caring for a confined person that is sent by fax,~~
29 ~~mailed, or hand delivered to the circuit court clerk of a county having~~
30 ~~a consolidated city. An application subject to this subsection that is~~
31 ~~sent by fax or hand delivered must be received by the circuit court clerk~~
32 ~~not earlier than ninety (90) days before election day nor later than 10~~
33 ~~p.m. on the fifth day before election day. An application subject to this~~
34 ~~subsection that is mailed must be received by the circuit court clerk not~~
35 ~~earlier than ninety (90) days before election day and not later than 10~~
36 ~~p.m. on the eighth day before election day.~~

37 SECTION 4. IC 3-11-4-5.1 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.1. (a) The
39 commission shall prescribe the form of an application for an absentee
40 ballot.

41 **(b) This subsection does not apply to the form for an absentee**
42 **ballot application to be submitted by an absent uniformed services**

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1 voter or overseas voter that contains a standardized oath for those
 2 voters. The form of the application for an absentee ballot must do
 3 all of the following:

4 (1) Require the applicant to swear to or affirm under the
 5 penalties of perjury that all of the information set forth on the
 6 application is true to the best of the applicant's knowledge and
 7 belief.

8 (2) Require a person who assisted with the completion of the
 9 application to swear to or affirm under the penalties of
 10 perjury the statements set forth in section 2(e) of this chapter.

11 (3) Set forth the penalties for perjury.

12 ~~(b)~~ (c) The form prescribed by the commission shall require that a
 13 voter who:

14 (1) requests an absentee ballot; and

15 (2) is eligible to vote in the precinct under IC 3-10-11 or
 16 IC 3-10-12;

17 must include the affidavit required by IC 3-10-11 or a written
 18 affirmation described in IC 3-10-12.

19 (d) The form prescribed by the commission must require that a
 20 voter who requests an absentee ballot to vote by mail must state a
 21 specific reason on the application to set forth the basis for the
 22 voter's reasonable expectation of being absent from the county on
 23 election day during the entire twelve (12) hours that the polls are
 24 open.

25 SECTION 5. IC 3-11-4-17.5 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.5. (a) Upon
 27 receiving an application for an absentee ballot, the county election
 28 board **(or the absentee voter board in the office of the circuit court**
 29 **clerk)** shall determine if:

30 (1) the applicant is a voter of the precinct in which the applicant
 31 resides, according to the records of the county voter registration
 32 office;

33 (2) the information set forth on the application appears to be
 34 true; and

35 (3) the application has been completed and filed in accordance
 36 with Indiana and federal law.

37 If the members of the absentee voter board are unable to agree
 38 about any of the determinations described in subdivisions (1)
 39 through (3), the issue shall be referred to the county election board
 40 for determination.

41 (b) If:

42 (1) the applicant is not a voter of the precinct according to the

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1 registration record; or if
 2 (2) the application as completed and filed:
 3 (A) contains a false statement; or
 4 (B) does not otherwise comply with this chapter), Indiana or
 5 federal law;
 6 as alleged under section 18.5 of this chapter, the county election
 7 board shall deny the application.
 8 (b) (c) This subsection applies after December 31, 2003, to an
 9 absentee ballot application submitted by an absent uniformed services
 10 voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d),
 11 if the application is denied, the county election board shall provide the
 12 voter with the reasons for the denial of the application. Unless the voter
 13 is present when the board denies the application, the board shall send
 14 a written notice stating the reasons for the denial to the voter. The
 15 notice must be sent:
 16 (1) not later than forty-eight (48) hours after the application is
 17 denied; and
 18 (2) to the voter at the address at which the voter requested that the
 19 absentee ballot be mailed.
 20 (c) This subsection applies after December 31, 2003: (d) If the
 21 county election board determines that the applicant is a voter of the
 22 precinct under subsection (a), the board shall then determine whether:
 23 (1) the applicant was required to file any additional
 24 documentation under IC 3-7-33-4.5; and
 25 (2) the applicant has filed this documentation according to the
 26 records of the county voter registration office.
 27 If the applicant has not filed the required documentation, the county
 28 election board shall approve the application if the application otherwise
 29 complies with this chapter. The board shall add a notation to the
 30 application and to the record compiled under section 17 of this chapter
 31 indicating that the applicant will be required to provide additional
 32 documentation to the county voter registration office under
 33 IC 3-7-33-4.5 before the absentee ballot may be counted.
 34 (d) (e) If the applicant:
 35 (1) is a voter of the precinct according to the registration record;
 36 (2) states on the application that the applicant resides at an
 37 address that is within the same precinct but is not the same
 38 address shown on the registration record; and
 39 (3) after December 31, 2005, provides a voter identification
 40 number on the application to permit transfer of registration under
 41 IC 3-7-13-13;
 42 the county election board shall direct the county voter registration

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1 office to transfer the applicant's voter registration address to the
 2 address within the precinct shown on the application. The applicant's
 3 application for an absentee ballot shall be approved if the applicant is
 4 otherwise eligible to receive the ballot under this chapter.

5 SECTION 6. IC 3-11-4-18 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) If a voter
 7 satisfies any of the following; **qualifications described in**
 8 **IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail,**
 9 the county election board shall, at the request of the voter, mail the
 10 official ballot, postage fully prepaid, to the voter at the address stated
 11 in the application.

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

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

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

16 (B) ~~a watcher under IC 3-6-8; IC 3-6-9; or IC 3-6-10;~~

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

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

20 (3) ~~The voter will be confined on election day to the voter's~~
 21 ~~residence; to a health care facility; or to a hospital because of an~~
 22 ~~illness or injury.~~

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

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

25 (6) ~~The voter is prevented from voting due to the voter's care of~~
 26 ~~an individual confined to a private residence because of illness or~~
 27 ~~injury.~~

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

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

32 (b) If the county election board mails an absentee ballot to a voter
 33 required to file additional documentation with the county voter
 34 registration office before voting by absentee ballot under this chapter,
 35 the board shall include a notice to the voter in the envelope mailed to
 36 the voter under section 20 of this chapter. The notice must inform the
 37 voter that the voter must file the additional documentation required
 38 under IC 3-7-33-4.5 with the county voter registration office not later
 39 than noon on election day for the absentee ballot to be counted as an
 40 absentee ballot, and that, if the documentation required under
 41 IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the
 42 ballot will be processed as a provisional ballot. The commission shall

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1 prescribe the form of this notice under IC 3-5-4-8.
 2 (c) **Except as provided in section 18.5 of this chapter**, the ballot
 3 shall be mailed:
 4 (1) on the day of the receipt of the voter's application; or
 5 (2) not more than five (5) days after the date of delivery of the
 6 ballots under section 15 of this chapter;
 7 whichever is later.
 8 (d) In addition to the ballot mailed under subsection (c), the county
 9 election board shall mail a special absentee ballot for overseas voters.
 10 (e) **Except as provided in section 18.5 of this chapter**, the ballot
 11 described in subsection (d):
 12 (1) must be mailed:
 13 (A) on the day of the receipt of the voter's application; or
 14 (B) not more than five (5) days after the latest date for delivery
 15 of the ballots under section 13(b) of this chapter applicable to
 16 that election;
 17 whichever is later; and
 18 (2) may not be mailed after the absentee ballots described by
 19 section 13(a) of this chapter have been delivered to the circuit
 20 court clerk or the clerk's authorized deputy.
 21 (f) This subsection applies after December 31, 2005. As required by
 22 42 U.S.C. 15481, an election board ~~must~~ **shall** establish a voter
 23 education program (specific to a paper ballot or optical scan ballot card
 24 provided as an absentee ballot under this chapter) to notify a voter of
 25 the effect of casting multiple votes for a single office.
 26 (g) This subsection applies after December 31, 2005. As provided
 27 by 42 U.S.C. 15481, when an absentee ballot is mailed under this
 28 section, the mailing must include:
 29 (1) information concerning the effect of casting multiple votes for
 30 an office; and
 31 (2) instructions on how to correct the ballot before the ballot is
 32 cast and counted, including the issuance of replacement ballots.
 33 SECTION 7. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2005]: **Sec. 18.5. (a) Upon receipt of an absentee ballot**
 36 **application, a member of the county election board or a member**
 37 **of an absentee voter board may file an affidavit with the county**
 38 **election board alleging that the application:**
 39 (1) **was not submitted by a voter of the precinct;**
 40 (2) **contains a false statement; or**
 41 (3) **has not been executed or filed in accordance with Indiana**
 42 **or federal law.**

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- 1 **(b) The affidavit must be in a form prescribed by the**
- 2 **commission and state the following:**
- 3 **(1) The name and title of the individual filing the affidavit.**
- 4 **(2) A brief statement of the facts known or believed by the**
- 5 **individual regarding why:**
 - 6 **(A) the applicant is not a voter of the precinct;**
 - 7 **(B) the application contains a false statement; or**
 - 8 **(C) the application has not been executed or filed in**
 - 9 **accordance with Indiana or federal law.**
- 10 **(3) That the individual is executing the affidavit under the**
- 11 **penalties of perjury.**
- 12 **(4) The penalties for perjury.**
- 13 **(c) Upon the filing of the affidavit, the approval or denial of the**
- 14 **application shall be referred to the county election board, which**
- 15 **shall promptly conduct a hearing on the matter.**
- 16 **(d) The county election board may act under IC 3-6-5-31 to**
- 17 **refer the matter to the appropriate prosecuting attorney.**
- 18 SECTION 8. IC 3-11-4-21 IS AMENDED TO READ AS
- 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) On the other
- 20 side of the envelope required by section 20 of this chapter shall be
- 21 printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b),
- 22 providing that the voter affirms under penalty of perjury that the
- 23 following information is true:
 - 24 (1) The name of the precinct and township (or ward and city or
 - 25 town).
 - 26 (2) That the voter is:
 - 27 (A) a resident of; or
 - 28 (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in;
 - 29 the precinct.
 - 30 (3) The voter's complete residence address, including the name of
 - 31 the city or town and county.
 - 32 (4) That the voter is entitled to vote in the precinct, the type of
 - 33 election to be held, and the date of the election.
 - 34 (5) That:
 - 35 (A) the voter has personally marked the enclosed ballot or
 - 36 ballots in secret and has enclosed them in this envelope and
 - 37 sealed them without exhibiting them to any other person;
 - 38 (B) the voter personally marked the enclosed ballot or ballots,
 - 39 enclosed them in this envelope, and sealed them with the
 - 40 assistance of an individual whose name is listed on the
 - 41 envelope and who affirms under penalty of perjury that the
 - 42 voter was not coerced or improperly influenced by the

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1 individual assisting the voter or any other person, in a manner
2 prohibited by state or federal law, to cast the ballot for or
3 against any candidate, political party, or public question; or
4 (C) as the properly authorized attorney in fact for the
5 undersigned under IC 30-5-5-14, the attorney in fact affirms
6 the voter personally marked the enclosed ballot or ballots in
7 secret and enclosed them in this envelope and sealed them
8 without exhibiting them to the attorney in fact or to any other
9 person.

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

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

13 (c) A guardian or conservator of an individual may not sign an
14 affidavit for the individual under this section unless the guardian or
15 conservator also holds a power of attorney authorizing the guardian or
16 conservator to sign the affidavit.

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

19 SECTION 9. IC 3-11-10-1 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A voter voting by
21 absentee ballot shall make and subscribe to the affidavit prescribed by
22 IC 3-11-4-21. The voter then shall, except as provided in subsection
23 (b), do the following:

- 24 (1) Mark the ballot in the presence of no other person.
- 25 (2) Fold each ballot separately.
- 26 (3) Fold each ballot so as to conceal the marking.
- 27 (4) Enclose each ballot, with the seal and signature of the circuit
28 court clerk on the outside, together with any unused ballot, in the
29 envelope provided.

30 (5) Securely seal the envelope.

31 (6) Do one (1) of the following:

32 (A) Mail the envelope to the county election board, with not
33 more than one (1) ballot per envelope.

34 (B) Deliver the envelope to the county election board in
35 person.

36 (C) Deliver the envelope to a member of the voter's household
37 or a person designated as the attorney in fact for the voter
38 under IC 30-5 **for delivery to the county election board:**

- 39 **(i) in person;**
- 40 **(ii) by United States mail; or**
- 41 **(iii) by a bonded courier company.**

42 (b) A voter permitted to transmit the voter's absentee ballots by fax

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1 under IC 3-11-4-6 is not required to comply with subsection (a). The
2 individual designated by the circuit court clerk to receive absentee
3 ballots transmitted by fax shall do the following upon receipt of an
4 absentee ballot transmitted by fax:

- 5 (1) Note the receipt of the absentee ballot in the records of the
- 6 circuit court clerk as other absentee ballots received by the circuit
- 7 court clerk are noted.
- 8 (2) Fold each ballot received from the voter separately so as to
- 9 conceal the marking.
- 10 (3) Enclose each ballot in a blank absentee ballot envelope.
- 11 (4) Securely seal the envelope.
- 12 (5) Mark on the envelope: "Absentee Ballot Received by Fax".
- 13 (6) Securely attach to the envelope the faxed affidavit received
- 14 with the voter's absentee ballots.

15 (c) Except as otherwise provided in this title, absentee ballots
16 received by fax shall be handled and processed as other absentee
17 ballots received by the circuit court clerk are handled and processed.

18 SECTION 10. IC 3-11-10-2 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A voter voting by
20 absentee ballot may mark a ballot with a pen or a lead pencil.

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

25 SECTION 11. IC 3-11-10-24 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) Except as
27 provided in subsection (b), a voter who satisfies any of the following
28 is entitled to vote by mail:

- 29 (1) The voter ~~will be~~ **has a specific, reasonable expectation of**
- 30 **being absent from the county on election day during the entire**
- 31 **twelve (12) hours that the polls are open and requests that the**
- 32 **absentee ballot be mailed to the voter at an address that is not**
- 33 **located within the county where the voter resides.**
- 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

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- 1 illness or injury **during the entire twelve (12) hours that the**
- 2 **polls are open.**
- 3 (4) The voter is a voter with disabilities.
- 4 (5) The voter is an elderly voter.
- 5 (6) The voter is prevented from voting due to the voter's care of
- 6 an individual confined to a private residence because of illness or
- 7 injury **during the entire twelve (12) hours that the polls are**
- 8 **open.**
- 9 (7) The voter is scheduled to work at the person's regular place of
- 10 employment during the entire twelve (12) hours that the polls are
- 11 open.
- 12 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 13 **(9) The voter is prevented from voting due to observance of a**
- 14 **religious discipline or religious holiday during the entire**
- 15 **twelve (12) hours that the polls are open.**
- 16 **(10) The voter is an address confidentiality program**
- 17 **participant (as defined in IC 5-26.5-1-6).**
- 18 (b) A voter with disabilities who:
 - 19 (1) is unable to make a voting mark on the ballot or sign the
 - 20 absentee ballot secrecy envelope; and
 - 21 (2) requests that the absentee ballot be delivered to an address
 - 22 within Indiana;
- 23 must vote before an absentee voter board under section 25(b) of this
- 24 chapter.
- 25 **(c) If a voter receives an absentee ballot by mail, the voter shall**
- 26 **personally mark the ballot in secret and seal the marked ballot**
- 27 **inside the envelope provided by the county election board for that**
- 28 **purpose. The voter shall:**
 - 29 **(1) deposit the sealed envelope in the United States mail for**
 - 30 **delivery to the county election board; or**
 - 31 **(2) authorize a member of the voter's household or the**
 - 32 **individual designated as the voter's attorney in fact to:**
 - 33 **(A) deposit the sealed envelope in the United States mail;**
 - 34 **or**
 - 35 **(B) deliver the sealed envelope in person to the county**
 - 36 **election board.**
- 37 **(d) If a member of the voter's household or the voter's attorney**
- 38 **in fact delivers the sealed envelope containing a voter's absentee**
- 39 **ballot to the county election board, the individual delivering the**
- 40 **ballot shall complete an affidavit in a form prescribed by the**
- 41 **commission. The affidavit must contain the following information:**
 - 42 **(1) The name and residence address of the voter whose**

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absentee ballot is being delivered.

(2) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.

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

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

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

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

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

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

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

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

SECTION 12. IC 3-11-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) A voter who votes by absentee ballot because of:

- (1) illness or injury; or**
- (2) caring for a confined person at a private residence;**

and who is within the county on election day may vote before an absentee voter board or by mail.

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

- (1) during the regular office hours of the circuit court clerk;**
- (2) at a time agreed to by the board and the voter;**
- (3) on any of the twelve (12) days immediately before election**

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1 day; and
 2 (4) only once before an election, unless:
 3 (A) the confined voter is unavailable at the time of the board's
 4 first visit due to a medical emergency; or
 5 (B) the board, in its discretion, decides to make an additional
 6 visit.
 7 (c) This subsection applies to a voter confined due to illness or
 8 injury. An absentee voter board may not be denied access to the voter's
 9 place of confinement if the board is present at the place of confinement
 10 at a time:
 11 (1) agreed to by the board and the voter; and
 12 (2) during the regular office hours of the circuit court clerk. A
 13 person who knowingly violates this subsection commits
 14 obstruction or interference with an election officer in the
 15 discharge of the officer's duty, a violation of IC 3-14-3-4.
 16 (d) The county election board, by unanimous vote of the board's
 17 entire membership, may authorize an absentee voter board to visit a
 18 voter who is confined due to illness or injury and will be outside of the
 19 county on election day in accordance with the procedures set forth in
 20 subsection (b).
 21 (e) This subsection applies after December 31, 2005. As provided
 22 by 42 U.S.C. 15481, a voter casting an absentee ballot under this
 23 section must be:
 24 (1) permitted to verify in a private and independent manner the
 25 votes selected by the voter before the ballot is cast and counted;
 26 (2) provided with the opportunity to change the ballot or correct
 27 any error in a private and independent manner before the ballot is
 28 cast and counted, including the opportunity to receive a
 29 replacement ballot if the voter is otherwise unable to change or
 30 correct the ballot; and
 31 (3) notified before the ballot is cast regarding the effect of casting
 32 multiple votes for the office and provided an opportunity to
 33 correct the ballot before the ballot is cast and counted.
 34 (f) This subsection applies after December 31, 2005. As provided
 35 by 42 U.S.C. 15481, when an absentee ballot is provided under this
 36 section, the board must also provide the voter with:
 37 (1) information concerning the effect of casting multiple votes for
 38 an office; and
 39 (2) instructions on how to correct the ballot before the ballot is
 40 cast and counted, including the issuance of replacement ballots.
 41 **(g) This subsection applies to a voter who applies to vote an**
 42 **absentee ballot by mail. The county election board shall include a**

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1 **copy of the Absentee Voter's Bill of Rights with any absentee ballot**
2 **mailed to the voter.**

3 SECTION 13. IC 3-12-6-21.9 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21.9. (a) **Except as**
5 **provided in subsection (c)**, a recount for nomination to an office
6 conducted under this chapter shall be completed not later than the final
7 Friday in June following the primary.

8 (b) **Except as provided in subsection (c)**, a recount for election to
9 an office conducted under this chapter shall be completed not later than
10 December 20 following the election.

11 (c) **The court that appointed the commission may issue an order**
12 **to extend the deadline under this section to a specific date if the**
13 **court finds that there is good cause to do so.**

14 SECTION 14. IC 3-12-11-17.7 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.7. (a) **This section**
16 **applies to ballots cast by any voting method.**

17 ~~(a)~~ (b) Unless the state recount commission makes a finding under
18 subsection ~~(b)~~; (c), the commission shall:

- 19 (1) count ballots in accordance with this article; and
- 20 (2) not order that all ballots in a precinct not be counted.

21 ~~(b)~~ (c) If:

- 22 (1) a party to the recount presents evidence of fraud, tampering,
23 or misconduct affecting the integrity of the ballot within a
24 precinct; and
- 25 (2) the commission determines that the fraud, tampering, or
26 misconduct within that precinct was so pervasive that it is
27 impossible for the commission to determine the approximate
28 number of votes that each candidate received in that precinct;

29 the commission may order that none of the ballots from that precinct
30 be counted.

31 SECTION 15. IC 3-12-11-21 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) **Except as**
33 **provided in subsection (b)**, a recount **or contest** for election to a
34 legislative office shall be completed **by the state recount commission**
35 before December 20 after the election.

36 (b) **The state recount commission may adopt orders extending**
37 **the deadline for completion of a recount or contest to a date**
38 **specified in the order if the commission finds that there is good**
39 **cause to do so.**

40 ~~(b)~~ ~~Before December 20~~ (c) **Not later than seven (7) days** after the
41 **election, state recount commission completes a recount**, the election
42 division shall prepare two (2) certified statements showing the total

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1 number of votes that each candidate received. The election division
2 shall transmit one (1) statement to the candidate receiving the highest
3 number of votes for the office. ~~Before December 20 after the election;~~
4 **After the statements have been prepared**, the secretary of state shall
5 deliver the other statement to the presiding officer of the house in
6 which the successful candidate is to be seated.

7 (c) ~~(d)~~ The statement shall be referred by the presiding officer for
8 such action as that house considers appropriate.

9 SECTION 16. IC 3-14-1-2.5 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2005]: **Sec. 2.5. (a) This section does not apply to an individual
12 subject to 2 U.S.C. 441h.**

13 **(b) An individual who:**
14 **(1) is:**
15 **(A) a candidate; or**
16 **(B) an employee or agent of a candidate; and**
17 **(2) knowingly misrepresents:**
18 **(A) the individual; or**
19 **(B) an organization under the control of the individual;**
20 **as speaking, writing, or otherwise acting for or on behalf of**
21 **another candidate, another political party, an employee or**
22 **agent of another candidate, or an employee or agent of**
23 **another political party on a matter that is damaging to the**
24 **other candidate, the other political party, an employee or**
25 **agent of the other candidate, or an employee or agent of the**
26 **other political party;**
27 **commits a Class A misdemeanor.**

28 SECTION 17. IC 3-14-2-1 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. A person who**
30 **recklessly writes the name of a voter on an affidavit of registration**
31 **without being personally acquainted with the voter and knowing the**
32 **voter to be the person who the voter represents the voter to be commits**
33 **a Class A misdemeanor: knowingly does any of the following**
34 **commits a Class D felony:**

35 **(1) Conspires with an individual for the purpose of**
36 **encouraging the individual to submit a false application for**
37 **registration.**
38 **(2) Conspires with an individual for the purpose of**
39 **encouraging the individual to vote illegally.**
40 **(3) Pays or offers to pay an individual for doing any of the**
41 **following:**
42 **(A) Applying for an absentee ballot.**

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- 1 **(B) Casting an absentee ballot.**
- 2 **(C) Registering to vote.**
- 3 **(D) Voting.**
- 4 **(4) Accepts the payment of any property for doing any of the**
- 5 **following:**
- 6 **(A) Applying for an absentee ballot.**
- 7 **(B) Casting an absentee ballot.**
- 8 **(C) Registering to vote.**
- 9 **(D) Voting.**

10 SECTION 18. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE
 11 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2005]: **Sec. 2.5. A person who does either of the following,**
 13 **knowing that an individual is ineligible to register to vote or to**
 14 **vote, commits absentee ballot fraud, a Class D felony:**

- 15 **(1) Solicits the individual to complete an absentee ballot**
- 16 **application.**
- 17 **(2) Solicits the individual to submit an absentee ballot**
- 18 **application to a county election board.**

19 SECTION 19. IC 3-14-2-3 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A person who:

- 21 (1) subscribes the name of another person to an affidavit of
- 22 registration **or application for an absentee ballot** knowing that
- 23 the application contains a false statement; or
- 24 (2) subscribes the name of another person to an affidavit of
- 25 registration **or application for an absentee ballot** without
- 26 writing on it the person's own name and address as an attesting
- 27 witness;

28 commits a ~~Class A misdemeanor~~; **Class D felony.**

29 SECTION 20. IC 3-14-2-5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. **(a) A person who**
 31 **recklessly destroys or fails to deliver an absentee ballot application**
 32 **to the proper officer after the application has been executed by**
 33 **another individual in accordance with IC 3-11-4 commits a Class**
 34 **A misdemeanor.**

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

38 SECTION 21. IC 3-14-2-13 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A person who
 40 knowingly hires or solicits another person

- 41 (1) ~~to come into Indiana;~~ or
- 42 (2) ~~to go from one precinct into another~~ a precinct

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

4 SECTION 22. IC 3-14-2-15 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. A member, ~~of the~~
 6 ~~commission; an employee of the commission; or a member; an~~
 7 **employee, or an agent** of a county election board who knowingly
 8 delivers a ballot to a person except in the manner prescribed by this
 9 title commits a Class D felony.

10 SECTION 23. IC 3-14-2-16 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A person who
 12 knowingly does any of the following commits a Class D felony:

13 (1) Applies for or receives a ballot in a precinct other than that
 14 precinct in which the person is entitled to vote.

15 (2) Except when receiving assistance under IC 3-11-9, shows a
 16 ballot after it is marked to another person in such a way as to
 17 reveal the contents of it or the name of a candidate for whom the
 18 person has voted.

19 (3) Except when offering assistance requested by a voter in
 20 accordance with IC 3-11-9, examines a ballot that a voter has
 21 prepared for voting or solicits the voter to show the ballot.

22 (4) Receives from a voter a ballot prepared by the voter for
 23 voting, except:

24 (A) the inspector;

25 (B) a member of the precinct election board temporarily acting
 26 for the inspector;

27 (C) a member **or an employee** of a county election board
 28 **(acting under the authority of the board and state law)** or
 29 an absentee voter board **member** acting under IC 3-11-10; or

30 (D) a member of the voter's household, ~~or~~ an individual
 31 designated as attorney in fact for the voter, **or an employee of:**

32 **(i) the United States Postal Service; or**

33 **(ii) a bonded courier company;**

34 **(acting in the individual's capacity as an employee of the**
 35 **United States Postal Service or a bonded courier company)**
 36 when delivering an envelope containing an absentee ballot
 37 under IC 3-11-10-1.

38 (5) Receives a ballot from a person other than one of the poll
 39 clerks or authorized assistant poll clerks.

40 (6) Delivers a ballot to a voter to be voted, unless the person is:

41 (A) a poll clerk or authorized assistant poll clerk; or

42 (B) a member of a county election board or an absentee voter

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- board acting under IC 3-11-10.
- (7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk.
- (8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.
- (9) Delivers an absentee ballot prepared by the voter for voting to a county election board, except for:**
 - (A) the inspector;**
 - (B) a member of the precinct election board temporarily acting for the inspector;**
 - (C) a member or an employee of a county election board (acting under the authority of the board and in accordance with state law) or an absentee voter board member acting under IC 3-11-10; or**
 - (D) a member of the voter's household or an individual designated as attorney in fact for the voter, an employee of:**
 - (i) the United States Postal Service; or**
 - (ii) a bonded courier company;****(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company) when delivering an envelope containing an absentee ballot under IC 3-11-10-1.**
- (10) Possesses an unmarked absentee ballot on or before the date of the election for which the absentee ballot has been printed, unless the person is authorized to possess the absentee ballot under this title as any of the following:**
 - (A) A printer, when arranging for the delivery of unmarked absentee ballots to a county election board under IC 3-11-2.**
 - (B) A county election board member or employee (acting under the authority of the board and in accordance with state law).**
 - (C) An absentee voter board member.**
 - (D) An employee of:**
 - (i) the United States Postal Service; or**
 - (ii) a bonded courier company;****(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company)**

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- 1 **when delivering an envelope containing an absentee ballot.**
- 2 **(E) An individual authorized under IC 3-11-10-24 to**
- 3 **deliver an absentee ballot.**
- 4 **(F) An absentee ballot counter under IC 3-11.5.**
- 5 **(G) A provisional ballot counter.**
- 6 **(H) A precinct election officer.**
- 7 **(I) The voter who applied for the absentee ballot.**
- 8 **(11) Completes or signs an absentee ballot application for a**
- 9 **voter, or assists a voter in completing an absentee ballot**
- 10 **application in violation of IC 3-11.**

11 SECTION 24. IC 3-14-2-18 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A voter who
 13 knowingly:

- 14 (1) does anything to enable any other person to see or know for
- 15 what ticket, candidates, or public questions the voter has voted on
- 16 a voting ~~machine;~~ **system;** or
- 17 (2) moves into a position, or does any other thing, to enable the
- 18 voter to see or know for what ticket, candidates, or public
- 19 questions any other voter votes on a voting ~~machine;~~ **system;**
- 20 commits a Class D felony.

21 SECTION 25. IC 3-14-2-24 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. A person who:

- 23 (1) takes a ballot legally deposited out of a ballot box **or out of a**
- 24 **voting system** for the purpose of destroying **it the ballot** or
- 25 substituting another **ballot** in its place;
- 26 (2) destroys or misplaces a ballot with the intent to substitute
- 27 another ballot for it or with the intent to prevent it from being
- 28 counted; or
- 29 (3) knowingly enters upon the pollbooks the name of a person
- 30 who has not legally voted or knowingly tallies a vote for a
- 31 candidate or on a public question not voted for by the ballot;
- 32 commits a Class D felony.

33 SECTION 26. IC 3-14-2-26 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. A person who:

- 35 (1) during the progress of an election or within the time for
- 36 preparation required under this title, knowingly breaks open or
- 37 violates the seal or lock of a ballot box, envelope, container, ~~or~~
- 38 **bag, or voting system component** in which ballots have been
- 39 deposited;
- 40 (2) knowingly obtains a ballot box, envelope, container, ~~or~~ **bag, or**
- 41 **voting system component** that contains ballots and cancels,
- 42 withholds, or destroys a ballot;

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

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

7 commits a Class D felony.

8 SECTION 27. IC 3-14-2-29 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. A person who
 10 knowingly inspects a ~~voting machine or electronic~~ voting system under
 11 IC 3-12-4-18 without obtaining authorization from the state recount
 12 commission to conduct the inspection commits a Class D felony.

13 SECTION 28. IC 3-14-3-1.1 IS ADDED TO THE INDIANA CODE
 14 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 15 **1, 2005]: Sec. 1.1. A person who knowingly does any of the**
 16 **following commits a Class D felony:**

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

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

21 SECTION 29. IC 3-14-3-4 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person who:

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

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

27 commits a Class D felony.

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

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

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

33 **commits a Class D felony.**

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

41 SECTION 30. IC 3-14-3-7 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. An inspector or poll

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1 clerk in a precinct who, for the purpose of:
 2 (1) deceiving a voter;
 3 (2) causing it to be doubtful for what ticket, candidate, or public
 4 question a vote is cast; or
 5 (3) causing it to appear that votes cast for one **(1)** ticket,
 6 candidate, or public question were cast for another ticket,
 7 candidate, or public question;
 8 removes, changes, or mutilates ~~a ballot label on~~ a voting machine
 9 **system** or any part thereof **of a voting system** commits a Class D
 10 felony.

11 SECTION 31. IC 3-14-3-16 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) As used in this
 13 section, "electioneering" includes expressing support or opposition to
 14 any candidate or political party or expressing approval or disapproval
 15 of any public question in any manner that could reasonably be expected
 16 to convey that support or opposition to another individual.

17 (b) A person who knowingly does any electioneering:
 18 (1) on election day within:
 19 (A) the polls; or
 20 (B) the chute; ~~or~~
 21 (2) within an area in the office of the circuit court clerk or a
 22 satellite office of the circuit court clerk established under
 23 IC 3-11-10-26.3 used by an absentee voter board to permit an
 24 individual to cast an absentee ballot; ~~or~~
 25 **(3) except for a voter who is:**
 26 **(A) the person's spouse;**
 27 **(B) an incapacitated person (as defined in IC 29-3-1-7.5)**
 28 **for whom the person has been appointed the guardian (as**
 29 **defined in IC 29-3-1-6); or**
 30 **(C) a member of the person's household;**
 31 **in the presence of a voter whom the person knows possesses**
 32 **an absentee ballot provided to the voter in accordance with**
 33 **Indiana law;**

34 commits a Class A misdemeanor.

35 SECTION 32. IC 3-14-3-18 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) As used in this
 37 section, "candidate" includes an individual whom the person knows is
 38 considering becoming a candidate.

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

41 (1) Seeks to enforce the payment of a debt by force or threat of
 42 force.

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- 1 (2) Ejects or threatens to eject the voter or candidate from a house
- 2 the voter or candidate occupies.
- 3 (3) Begins a criminal prosecution. or
- 4 (4) Damages the business or trade of the voter or candidate.
- 5 commits a Class D felony.

6 **(5) Communicates a threat to commit a forcible felony (as**
 7 **defined in IC 35-41-1-11) against a voter or candidate with the**
 8 **intent that the voter or candidate:**

- 9 **(A) engage in conduct against the voter's or candidate's**
 10 **will; or**
- 11 **(B) be placed in fear of retaliation for a prior lawful act as**
 12 **a voter or candidate.**

13 SECTION 33. IC 3-14-3-19 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. A person who, for
 15 the purpose of inducing or procuring another person to:

- 16 **(1) apply for or cast an absentee ballot; or**
- 17 **(2) vote or refrain from voting for or against a candidate or for or**
 18 **against a public question at an election or political convention;**
 19 **gives, offers, or promises to any person any money or other property**
 20 **commits a Class D felony.**

21 SECTION 34. IC 3-14-3-20 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A person who, for
 23 the purpose of inducing or procuring a voter to:

- 24 **(1) apply for or cast an absentee ballot; or**
- 25 **(2) vote or refrain from voting for or against a candidate or for or**
 26 **against a public question at an election or political convention;**
 27 **receives, accepts, requests, or solicits from any person any money or**
 28 **other property commits a Class D felony.**

29 SECTION 35. IC 3-14-3-20.5 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2005]: **Sec. 20.5. (a) This section does not**
 32 **apply to activity subject to 18 U.S.C. 1341.**

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

- 34 **(1) conspires to obtain property the individual would be**
 35 **entitled to receive as compensation for serving as an elected**
 36 **official by securing false or fraudulent absentee ballot**
 37 **applications or voter registration applications; and**
- 38 **(2) for the purpose of executing the conspiracy:**
 - 39 **(A) causes the applications to be sent or delivered by a**
 40 **private or commercial carrier operating entirely within**
 41 **Indiana; or**
 - 42 **(B) takes or receives from the private or commercial**

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1 carrier the false or fraudulent applications, or causes the
2 applications to be delivered by the carrier to another
3 person;
4 commits a Class D felony.

5 SECTION 36. IC 3-14-3-21.5 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2005]: Sec. 21.5. A person who knowingly or
8 intentionally intimidates, threatens, or coerces an individual for:

- 9 (1) voting or attempting to vote;
- 10 (2) urging or aiding another individual to vote or attempt to
- 11 vote; or
- 12 (3) exercising any power or duty under this title concerning
- 13 registration or voting;

14 commits voter intimidation, a Class D felony.

15 SECTION 37. IC 3-14-5-1 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This section
17 applies during an election whenever a voter makes an affidavit before
18 the inspector in a precinct that a person who has voted is an illegal
19 voter in the precinct.

20 (b) Immediately after the close of the polls the inspector shall
21 deliver the affidavit to the county election board for delivery by the
22 prosecuting attorney for the county who to the grand jury under
23 section 2 of this chapter. The prosecuting attorney for the county
24 shall:

- 25 (1) proceed as if the affidavit had been made before the
- 26 prosecuting attorney; and
- 27 (2) notify ensure that the grand jury notifies the NVRA official
- 28 under section 2 of this chapter if a violation of NVRA appears
- 29 to have occurred.

30 SECTION 38. IC 3-14-5-2 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Each precinct
32 election board shall, at the close of the polls, place all affidavits
33 prescribed by this title for use on election day to determine the
34 eligibility of a precinct election officer (or a person who wishes to cast
35 a ballot) in a strong paper bag or envelope and securely seal it. Each
36 member shall endorse that member's name on the back of the bag or
37 envelope.

38 (b) The inspector and judge of the opposite political party shall
39 deliver the sealed bag or envelope to the county election board. whose
40 duty it is to The county election board shall do the following:

- 41 (1) Remove the affidavits from the bag or envelope.
- 42 (2) Mail a copy of each affidavit to the secretary of state.

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(3) Replace the affidavits within the bag or envelope.
(4) Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.

(5) Carefully preserve it the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the foreman of the grand jury when next in session.

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

(d) The grand jury shall file a report of the result of its inquiry with:
(1) the court; and
(2) the NVRA official if a violation of NVRA appears to have occurred.

SECTION 39. IC 35-44-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who:

- (1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant;
- (2) being a public servant, solicits, accepts, or agrees to accept, either before or after ~~he~~ **the person** becomes appointed, elected, or qualified, any property, except property ~~he~~ **the person** is authorized by law to accept, with intent to control the performance of an act related to ~~his~~ **the person's** employment or function as a public servant;
- (3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;
- (4) solicits, accepts, or agrees to accept any property, except property ~~he~~ **the person** is authorized by law to accept, with intent to control the performance of an act related to the employment or function of a public servant;
- (5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;
- (6) being a person participating or officiating in, or connected

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1 with, an athletic contest, sporting event, or exhibition, solicits,
 2 accepts, or agrees to accept any property with intent that ~~he~~ **the**
 3 **person** will fail to use ~~his~~ **the person's** best efforts in connection
 4 with that contest, event, or exhibition;

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

8 (i) **(A)** withhold any testimony, information, document, or
 9 thing;

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

12 (iii) **(C)** absent ~~himself~~ **the person** from the proceeding or
 13 investigation to which ~~he~~ **the person** has been legally
 14 summoned; ~~or~~

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

18 (i) **(A)** withhold any testimony, information, document, or
 19 thing;

20 (ii) **(B)** avoid legal process summoning the witness or
 21 informant to testify or supply evidence; or

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

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

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

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

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

32 commits bribery, a Class C felony.

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

35 SECTION 40. [EFFECTIVE JULY 1, 2005] **(a) The definitions in**
 36 **IC 3-5-2 apply throughout this SECTION.**

37 **(b) Not later than September 1, 2005, the commission shall act**
 38 **under IC 3-5-4-8 to prescribe absentee ballot application forms**
 39 **that comply with IC 3-11, as amended by this act.**

40 **(c) This subsection does not apply to an absentee ballot**
 41 **application form prescribed by the commission for use by an**
 42 **absent uniformed services voter or overseas voter. An absentee**

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1 **ballot application form prescribed by the commission before**
2 **September 1, 2005, may not be used or accepted by a county**
3 **election board after August 31, 2004.**
4 **(d) This SECTION expires January 1, 2006.**

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SENATE MOTION

Madam President: I move that Senator Waterman be added as coauthor of Senate Bill 15.

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 15, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 3. IC 3-11-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as provided in ~~subsection (b)~~ and section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

- (1) Noon on election day if the voter registers to vote under IC 3-7-36-14.
- (2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk or is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by fax under section 6(h) of this chapter.
- (3) Noon on the day before election day if:
 - (A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and
 - (B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.
- (4) Midnight on the eighth day before election day if the application:
 - (A) is a mailed application; or
 - (B) was transmitted by fax;
 from other voters.

~~(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by fax, mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by fax or hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day."~~

Page 10 , between lines 24 and 25, begin a new line block indented

SB 15—LS 6146/DI 75+



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and insert:

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

Page 16, line 12, after "member" insert ",".

Page 16, line 12, strike "of the".

Page 16, line 13, strike "commission, an employee".

Page 16, line 13, delete "or agent".

Page 16, line 13, strike "of the".

Page 16, line 13, delete "election".

Page 16, line 14, delete "division,".

Page 16, line 14, strike "or a member," and insert **"an"**.

Page 16, line 14, before "agent" insert **"an"**.

Page 16, line 34, after "member" insert **"or an employee"**.

Page 16, line 34, after "board" insert **"(acting under the authority of the board and state law)"**.

Page 16, line 35, after "board" insert **"member"**.

Page 16, line 37, delete "or".

Page 16, line 37, after "of" insert ":

(i).

Page 16, line 38, delete "Service," and insert **"Service; or**

(ii) a bonded courier company;

(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company)".

Page 17, line 16, after "member" insert **"or an employee"**.

Page 17, line 16, after "board" insert **"(acting under the authority of the board and in accordance with state law)"**.

Page 17, line 17, after "board" insert **"member"**.

Page 17, line 19, delete "or".

Page 17, line 20, after "of" insert ":

(i).

Page 17, line 20, delete "Service," and insert **"Service; or**

(ii) a bonded courier company;

(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company)".

Page 17, line 26, delete "printer or the election division," and insert **"printer,"**

Page 17, line 29, delete "member." and insert **"member or employee (acting under the authority of the board and in accordance with state law.)"**.

Page 17, line 31, after "of" insert ":

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(i)".

Page 17, line 31, after "Service" insert "; or

(ii) a bonded courier company;

(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 15 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 6, Nays 2.

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SENATE MOTION

Madam President: I move that Senate Bill 15 be amended to read as follows:

Page 4, line 17, after "mailed," insert ", **transmitted by fax,**".

Page 6, line 20, delete "(d)".

Page 6, line 20, after "2003." insert "**(d)**".

Page 10, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 9. IC 3-11-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, except as provided in subsection (b), do the following:

- (1) Mark the ballot in the presence of no other person.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.
- (5) Securely seal the envelope.
- (6) Do one (1) of the following:
 - (A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.
 - (B) Deliver the envelope to the county election board in person.
 - (C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5 **for delivery to the county election board:**
 - (i) in person;**
 - (ii) by United States mail; or**
 - (iii) by a bonded courier company.**

(b) A voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6 is not required to comply with subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax shall do the following upon receipt of an absentee ballot transmitted by fax:

- (1) Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.
- (2) Fold each ballot received from the voter separately so as to conceal the marking.
- (3) Enclose each ballot in a blank absentee ballot envelope.
- (4) Securely seal the envelope.

SB 15—LS 6146/DI 75+



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(5) Mark on the envelope: "Absentee Ballot Received by Fax".

(6) Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.

(c) Except as otherwise provided in this title, absentee ballots received by fax shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed."

Page 14, line 41, delete "(c)".

Page 14, line 41, after "December 20" insert "(c)".

Page 17, line 31, delete "household" and insert "household,".

Page 17, line 31, strike "or".

Page 17, line 32, after "voter," insert "or".

Page 21, line 6, after "one" insert "(1)".

Page 21, line 26, after "(3)" insert "except for a voter who is:

(A) the person's spouse;

(B) an incapacitated person (as defined in IC 29-3-1-7.5) for whom the person has been appointed the guardian (as defined in IC 29-3-1-6); or

(C) a member of the person's household;".

Page 21, line 26, beginning with "in" begin a new line block indented.

Renumber all SECTIONS consecutively.

(Reference is to SB 15 as printed January 25, 2005.)

LAWSON C

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