
SENATE BILL No. 104

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-11; IC 11-10-12-4; IC 35-42-4-14.

Synopsis: Serious sex offenders. Defines "serious sex offender". Makes entry on school property by a serious sex offender a Class D felony. Provides that a serious sex offender is entitled to vote by mail. Requires a circuit court clerk to, before an election, notify serious sex offenders whose polling place is located on school property: (1) that a serious sex offender who knowingly or intentionally enters school property commits unlawful entry by a serious sex offender, a Class D felony; and (2) of other voting alternatives. Provides that a circuit court clerk may arrange transportation to a clerk's office, satellite office, or vote center for a serious sex offender whose polling place is located on school property. Requires the department of correction to inform a serious sex offender at the time of discharge from the department: (1) that a serious sex offender who knowingly or intentionally enters school property commits unlawful entry by a serious sex offender, a Class D felony; and (2) of voting options for the serious sex offender.

Effective: July 1, 2012.

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January 4, 2012, read first time and referred to Committee on Judiciary.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 104



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

- 1 SECTION 1. IC 3-11-10-24, AS AMENDED BY P.L.225-2011,
- 2 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2012]: Sec. 24. (a) Except as provided in subsection (b), a
- 4 voter who satisfies any of the following is entitled to vote by mail:
- 5 (1) The voter has a specific, reasonable expectation of being
- 6 absent from the county on election day during the entire twelve
- 7 (12) hours that the polls are open.
- 8 (2) The voter will be absent from the precinct of the voter's
- 9 residence on election day because of service as:
- 10 (A) a precinct election officer under IC 3-6-6;
- 11 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
- 12 (C) a challenger or pollbook holder under IC 3-6-7; or
- 13 (D) a person employed by an election board to administer the
- 14 election for which the absentee ballot is requested.
- 15 (3) The voter will be confined on election day to the voter's
- 16 residence, to a health care facility, or to a hospital because of an
- 17 illness or injury during the entire twelve (12) hours that the polls



- 1 are open.
- 2 (4) The voter is a voter with disabilities.
- 3 (5) The voter is an elderly voter.
- 4 (6) The voter is prevented from voting due to the voter's care of
- 5 an individual confined to a private residence because of illness or
- 6 injury during the entire twelve (12) hours that the polls are open.
- 7 (7) The voter is scheduled to work at the person's regular place of
- 8 employment during the entire twelve (12) hours that the polls are
- 9 open.
- 10 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 11 (9) The voter is prevented from voting due to observance of a
- 12 religious discipline or religious holiday during the entire twelve
- 13 (12) hours that the polls are open.
- 14 (10) The voter is an address confidentiality program participant
- 15 (as defined in IC 5-26.5-1-6).
- 16 (11) The voter is a member of the military or public safety officer.
- 17 **(12) The voter is a serious sex offender (as defined in**
- 18 **IC 35-42-4-14(a)).**
- 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 shall
- 27 personally mark the ballot in secret and seal the marked ballot inside
- 28 the envelope provided by the county election board for that purpose.
- 29 The voter shall:
- 30 (1) deposit the sealed envelope in the United States mail for
- 31 delivery to the county election board; or
- 32 (2) authorize a member of the voter's household or the individual
- 33 designated as the voter's attorney in fact to:
- 34 (A) deposit the sealed envelope in the United States mail; 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 in
- 38 fact delivers the sealed envelope containing a voter's absentee ballot to
- 39 the county election board, the individual delivering the ballot shall
- 40 complete an affidavit in a form prescribed by the commission. The
- 41 affidavit must contain the following information:
- 42 (1) The name and residence address of the voter whose absentee

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- 1 ballot is being delivered.
 2 (2) A statement of the full name, residence and mailing address,
 3 and daytime and evening telephone numbers (if any) of the
 4 individual delivering the absentee ballot.
 5 (3) A statement indicating whether the individual delivering the
 6 absentee ballot is a member of the voter's household or is the
 7 attorney in fact for the voter. If the individual is the attorney in
 8 fact for the voter, the individual must attach a copy of the power
 9 of attorney for the voter, unless a copy of this document has
 10 already been filed with the county election board.
 11 (4) The date and location at which the absentee ballot was
 12 delivered by the voter to the individual delivering the ballot to the
 13 county election board.
 14 (5) A statement that the individual delivering the absentee ballot
 15 has complied with Indiana laws governing absentee ballots.
 16 (6) A statement that the individual delivering the absentee ballot
 17 is executing the affidavit under the penalties of perjury.
 18 (7) A statement setting forth the penalties for perjury.
 19 (e) The county election board shall record the date and time that the
 20 affidavit under subsection (d) was filed with the board.
 21 (f) After a voter has mailed or delivered an absentee ballot to the
 22 office of the circuit court clerk, the voter may not recast a ballot, except
 23 as provided in section 1.5 of this chapter.
 24 SECTION 2. IC 3-11-19 IS ADDED TO THE INDIANA CODE AS
 25 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2012]:
 27 **Chapter 19. Serious Sex Offender Voting**
 28 **Sec. 1. At least sixty (60) days before an election, the circuit**
 29 **court clerk shall inform each person in the county who is a serious**
 30 **sex offender (as defined in IC 35-42-4-14(a)) and whose precinct**
 31 **polling place is located on school property that:**
 32 **(1) a serious sex offender who knowingly or intentionally**
 33 **enters school property commits unlawful entry by a serious**
 34 **sex offender, a Class D felony, under IC 35-42-4-14(b); and**
 35 **(2) a serious sex offender may vote by:**
 36 **(A) mail under IC 3-11-10-24;**
 37 **(B) absentee ballot at a satellite office established under**
 38 **IC 3-11-10-26.3 that is not a school;**
 39 **(C) absentee ballot in the office of the circuit court clerk or**
 40 **board of elections and registration in a county subject to**
 41 **IC 3-6-5.2; or**
 42 **(D) absentee ballot at a vote center under IC 3-11-18.1.**

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1 **Sec. 2. The circuit court clerk may provide transportation to a**
 2 **serious sex offender described in section 1 of this chapter to**
 3 **facilitate the offender's voting at a circuit court clerk's office,**
 4 **satellite office, or vote center.**

5 SECTION 3. IC 11-10-12-4 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. Upon the discharge
 7 of a criminal offender, the department shall do the following:

8 (1) Certify the discharge to the clerk of the sentencing court, who
 9 shall make an entry on the record of judgment that the sentence
 10 has been satisfied.

11 (2) Inform the criminal offender in writing of the right to register
 12 to vote under IC 3-7-13-5.

13 (3) Provide the criminal offender with a copy of the voter's bill of
 14 rights prescribed by the Indiana election commission under
 15 IC 3-5-8.

16 **(4) If the criminal offender is a serious sex offender (as**
 17 **defined in IC 35-42-4-14(a)), inform the criminal offender**
 18 **that:**

19 **(A) a serious sex offender who knowingly or intentionally**
 20 **enters school property commits unlawful entry by a**
 21 **serious sex offender, a Class D felony, under**
 22 **IC 35-42-4-14(b); and**

23 **(B) a serious sex offender may be eligible to vote as**
 24 **described in IC 3-11-19-1(2).**

25 SECTION 4. IC 35-42-4-14 IS ADDED TO THE INDIANA CODE
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2012]: **Sec. 14. (a) As used in this section, "serious sex offender"**
 28 **means a person required to register as a sex offender under**
 29 **IC 11-8-8 who is:**

30 **(1) found to be a sexually violent predator under**
 31 **IC 35-38-1-7.5; or**

32 **(2) convicted of one (1) or more of the following offenses:**

33 **(A) Child molesting (IC 35-42-4-3).**

34 **(B) Child exploitation (IC 35-42-4-4(b)).**

35 **(C) Child solicitation (IC 35-42-4-6).**

36 **(D) Child seduction (IC 35-42-4-7).**

37 **(E) Possession of child pornography (IC 35-42-4-4(c)).**

38 **(F) Vicarious sexual gratification (IC 35-42-4-5(a) and**
 39 **IC 35-42-4-5(b)).**

40 **(G) Performing sexual conduct in the presence of a minor**
 41 **(IC 35-42-4-5(c)).**

42 **(H) Sexual misconduct with a minor (IC 35-42-4-9).**

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- 1 **(I) A conspiracy or an attempt to commit an offense**
- 2 **described in clauses (A) through (H).**
- 3 **(J) An offense in another jurisdiction that is substantially**
- 4 **similar to an offense described in clauses (A) through (I).**
- 5 **(b) A serious sex offender who knowingly or intentionally enters**
- 6 **school property commits unlawful entry by a serious sex offender,**
- 7 **a Class D felony.**

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