

SENATE BILL No. 175

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-11.

Synopsis: Absentee ballot applications. Requires a voter requesting an absentee ballot, except for a voter casting an absentee ballot in person at the circuit court clerk's office or a satellite office, to provide the voter's voter identification number as a part of the absentee ballot application. Provides that if an absentee voter does not provide the voter's voter identification number, the voter's application for an absentee ballot shall be denied.

Effective: July 1, 2012.

Young R Michael

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

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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. 175



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 3-11-4-2, AS AMENDED BY P.L.103-2005,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 2. (a) A voter who wants to vote by absentee
4 ballot must apply to the county election board for an official absentee
5 ballot. Except as provided in subsection (b), the voter must sign the
6 absentee ballot application.

7 (b) If a voter with disabilities is unable to sign the absentee ballot
8 application and the voter has not designated an individual to serve as
9 attorney in fact for the voter, the county election board may designate
10 an individual to sign the application on behalf of the voter. If an
11 individual applies for an absentee ballot as the properly authorized
12 attorney in fact for a voter, the attorney in fact must attach a copy of the
13 power of attorney to the application.

14 (c) A person may provide an individual with an application for an
15 absentee ballot with the following information already printed or
16 otherwise set forth on the application when provided to the individual:

17 (1) The name of the individual.



- 1 (2) The voter registration address of the individual.
 2 (3) The mailing address of the individual.
 3 (4) The date of birth of the individual.
 4 ~~(5) The voter identification number of the individual.~~
 5 (d) A person may not provide an individual with an application for
 6 an absentee ballot with the following information already printed or
 7 otherwise set forth on the application when provided to the individual:
 8 (1) The address to which the absentee ballot would be mailed, if
 9 different from the voter registration address of the individual.
 10 (2) In a primary election, the major political party ballot requested
 11 by the individual.
 12 (3) In a primary or general election, the types of absentee ballots
 13 requested by the individual.
 14 (4) The reason why the individual is entitled to vote an absentee
 15 ballot:
 16 (A) by mail; or
 17 (B) before an absentee voter board (other than an absentee
 18 voter board located in the office of the circuit court clerk or a
 19 satellite office);
 20 in accordance with IC 3-11-4-18, IC 3-11-10-24, or
 21 IC 3-11-10-25.
 22 **(5) The voter identification number of the individual.**
 23 (e) If the county election board determines that an absentee ballot
 24 application does not comply with subsection (d), the board shall deny
 25 the application under section 17.5 of this chapter.
 26 (f) A person who assists an individual in completing any
 27 information described in subsection (d) on an absentee ballot
 28 application shall state under the penalties for perjury the following
 29 information on the application:
 30 (1) The full name, residence and mailing address, and daytime
 31 and evening telephone numbers (if any) of the person providing
 32 the assistance.
 33 (2) The date this assistance was provided.
 34 (3) That the person providing the assistance has complied with
 35 Indiana laws governing the submission of absentee ballot
 36 applications.
 37 (4) That the person has no knowledge or reason to believe that the
 38 individual submitting the application:
 39 (A) is ineligible to vote or to cast an absentee ballot; or
 40 (B) did not properly complete and sign the application.
 41 (g) This subsection does not apply to an employee of the United
 42 States Postal Service or a bonded courier company acting in the

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1 individual's capacity as an employee of the United States Postal Service
 2 or a bonded courier company. A person who receives a completed
 3 absentee ballot application from the individual who has applied for the
 4 absentee ballot shall file the application with the appropriate county
 5 election board not later than:

- 6 (1) noon seven (7) days after the person receives the application;
 7 or
 8 (2) the deadline set by Indiana law for filing the application with
 9 the board;

10 whichever occurs first.

11 (h) This subsection does not apply to an employee of the United
 12 States Postal Service or a bonded courier company acting in the
 13 individual's capacity as an employee of the United States Postal Service
 14 or a bonded courier company. A person filing an absentee ballot
 15 application, other than the person's own absentee ballot application,
 16 must sign an affidavit at the time of filing the application. The affidavit
 17 must be in a form prescribed by the commission. The form must
 18 include the following:

- 19 (1) A statement of the full name, residence and mailing address,
 20 and daytime and evening telephone numbers (if any) of the person
 21 submitting the application.
 22 (2) A statement that the person filing the affidavit has complied
 23 with Indiana laws governing the submission of absentee ballot
 24 applications.
 25 (3) A statement that the person has no knowledge or reason to
 26 believe that the individual whose application is to be filed:
 27 (A) is ineligible to vote or to cast an absentee ballot; or
 28 (B) did not properly complete and sign the application.
 29 (4) A statement that the person is executing the affidavit under the
 30 penalties of perjury.
 31 (5) A statement setting forth the penalties for perjury.

32 (i) The county election board shall record the date and time of the
 33 filing of the affidavit.

34 SECTION 2. IC 3-11-4-5.1, AS AMENDED BY P.L.1-2006,
 35 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2012]: Sec. 5.1. (a) The commission shall prescribe the form
 37 of an application for an absentee ballot.

38 (b) This subsection does not apply to the form for an absentee ballot
 39 application to be submitted by an absent uniformed services voter or
 40 overseas voter that contains a standardized oath for those voters. The
 41 form of the application for an absentee ballot must do all of the
 42 following:

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- 1 (1) Require the applicant to swear to or affirm under the penalties
- 2 of perjury that all of the information set forth on the application
- 3 is true to the best of the applicant's knowledge and belief.
- 4 (2) Require a person who assisted with the completion of the
- 5 application to swear to or affirm under the penalties of perjury the
- 6 statements set forth in section 2(f) of this chapter.
- 7 (3) Set forth the penalties for perjury.

- 8 (c) The form prescribed by the commission shall require that a voter
- 9 who:
- 10 (1) requests an absentee ballot; and
- 11 (2) is eligible to vote in the precinct under IC 3-10-11 or
- 12 IC 3-10-12;

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

15 **(d) The form prescribed by the commission must require that a**
 16 **voter who requests an absentee ballot, except for a voter**
 17 **submitting an application to cast an absentee ballot under**
 18 **IC 3-11-10-26, provide the voter's voter identification number.**

19 SECTION 3. IC 3-11-4-17, AS AMENDED BY P.L.198-2005,
 20 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2012]: Sec. 17. Upon receipt of an application for an absentee
 22 ballot, a circuit court clerk shall file the application in the clerk's office
 23 and record all of the following:

- 24 (1) The voter's name.
- 25 (2) The date the application is received.
- 26 **(3) The voter identification number required under section**
- 27 **5.1(d) of this chapter to be provided by the voter.**
- 28 ~~(4)~~ **(4)** The date the ballot is sent to the voter.
- 29 ~~(4)~~ **(5)** If mailed, the address to which the ballot is sent.
- 30 ~~(5)~~ **(6)** If transmitted by fax, the fax number to which the ballot is
- 31 faxed.
- 32 ~~(6)~~ **(7)** The date the ballot is marked before the clerk or otherwise
- 33 received from the voter.
- 34 ~~(7)~~ **(8)** The combined total number of absentee ballots sent by the
- 35 county to absent uniformed services voters and overseas voters.
- 36 ~~(8)~~ **(9)** The total number of absentee ballots returned by voters
- 37 described in subdivision ~~(7)~~ **(8)** in time to be counted.
- 38 ~~(9)~~ **(10)** The total number of absentee ballots described in
- 39 subdivision ~~(7)~~ **(8)** that were counted in whole or in part.
- 40 ~~(10)~~ **(11)** Any other information that is necessary or advisable.

41 SECTION 4. IC 3-11-4-17.5, AS AMENDED BY P.L.164-2006,
 42 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2012]: Sec. 17.5. (a) Upon receiving an application for an
 2 absentee ballot, the county election board (or the absentee voter board
 3 in the office of the circuit court clerk) shall determine if:

- 4 (1) the applicant is a voter of the precinct in which the applicant
 5 resides, according to the records of the county voter registration
 6 office;
 7 (2) the information set forth on the application appears to be true;
 8 and
 9 (3) the application has been completed and filed in accordance
 10 with Indiana and federal law.

11 If the members of the absentee voter board are unable to agree about
 12 any of the determinations described in subdivisions (1) through (3), the
 13 issue shall be referred to the county election board for determination.
 14 If the application is submitted by a voter wanting to cast an absentee
 15 ballot under IC 3-11-10-26, the voter shall be permitted to cast an
 16 absentee ballot, and the voter's absentee ballot shall be treated as a
 17 provisional ballot.

18 (b) If:

- 19 (1) the applicant is not a voter of the precinct according to the
 20 registration record; or
 21 (2) the application as completed and filed:
 22 (A) contains a false statement; or
 23 (B) does not otherwise comply with Indiana or federal law;

24 as alleged under section 18.5 of this chapter, the county election board
 25 shall deny the application.

26 **(c) This subsection does not apply to a voter submitting an**
 27 **application to cast an absentee ballot under IC 3-11-10-26. If a**
 28 **voter has not provided the voter's voter identification number as**
 29 **a part of the voter's application for an absentee ballot under**
 30 **section 5.1(d) of this chapter, the county election board shall deny**
 31 **the application and send written notice to the voter stating the**
 32 **reason for the denial. The notice must be:**

- 33 **(1) in a form prescribed by the commission under IC 3-5-4-8;**
 34 **(2) sent to the voter not later than forty-eight (48) hours after**
 35 **the voter's application is denied; and**
 36 **(3) sent to the voter at the address at which the voter**
 37 **requested that the absentee ballot be mailed.**

38 **(e) (d)** This subsection applies to an absentee ballot application
 39 submitted by an absent uniformed services voter or an overseas voter.
 40 In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied,
 41 the county election board shall provide the voter with the reasons for
 42 the denial of the application. Unless the voter is present when the board

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1 denies the application, the board shall send a written notice stating the
2 reasons for the denial to the voter. The notice must be sent:

- 3 (1) not later than forty-eight (48) hours after the application is
4 denied; and
5 (2) to the voter at the address at which the voter requested that the
6 absentee ballot be mailed.

7 ~~(d)~~ **(e)** If the county election board determines that the applicant is
8 a voter of the precinct under subsection (a), the board shall then
9 determine whether:

- 10 (1) the applicant was required to file any additional
11 documentation under IC 3-7-33-4.5; and
12 (2) the applicant has filed this documentation according to the
13 records of the county voter registration office.

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

21 ~~(e)~~ **(f)** If the applicant:

- 22 (1) is a voter of the precinct according to the registration record;
23 (2) states on the application that the applicant resides at an
24 address that is within the same precinct but is not the same
25 address shown on the registration record; and
26 (3) provides a voter identification number on the application to
27 permit transfer of registration under IC 3-7-13-13;

28 the county election board shall direct the county voter registration
29 office to transfer the applicant's voter registration address to the
30 address within the precinct shown on the application. The applicant's
31 application for an absentee ballot shall be approved if the applicant is
32 otherwise eligible to receive the ballot under this chapter.

33 SECTION 5. IC 3-11-10-1.2, AS ADDED BY P.L.103-2005,
34 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2012]: Sec. 1.2. **(a) Except as provided by subsection (b),**
36 an absentee voter is not required to provide proof of identification
37 when:

- 38 (1) mailing, delivering, or transmitting an absentee ballot under
39 section 1 of this chapter; or
40 (2) voting before an absentee board under section 25 of this
41 chapter.

42 **(b) As required under IC 3-11-4-5.1(d), an absentee voter**

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1 described in subsection (a) shall provide the voter's voter
2 identification number before the voter receives an absentee ballot.

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