

SENATE BILL No. 405

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5; IC 3-8-1.

Synopsis: Residency requirements for members of Congress. Establishes standards for determining residency of candidates for United States Senator and United States Representative for Indiana. Requires a candidate for election to the United States Senate or the United States House of Representatives to have been a resident of Indiana during the calendar year of the election and for each of the five calendar years immediately before the calendar year of the election.

Effective: January 1, 2013.

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January 9, 2012, read first time and referred to Committee on Elections.

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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 *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. 405



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 3-5-5-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2013]: Sec. 1. This chapter shall be used
3 to determine the residency of the following:

- 4 (1) A voter or a person applying to become a voter.
- 5 (2) A candidate, **except a candidate for United States Senator**
- 6 **or United States Representative.**
- 7 (3) A person holding an elected office.

8 SECTION 2. IC 3-5-5.5 IS ADDED TO THE INDIANA CODE AS
9 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
10 JANUARY 1, 2013]:

11 **Chapter 5.5. Standards for Determining Residency of**
12 **Candidates for United States Senator and United States**
13 **Representative**

14 **Sec. 1. This chapter shall be used to determine whether an**
15 **individual is a resident of Indiana for purposes of the individual's**
16 **candidacy for either of the following:**

- 17 (1) **United States Senator for Indiana.**



1 **(2) United States Representative for Indiana.**

2 **Sec. 2. As used in this chapter, "foreign jurisdiction" refers to**
 3 **a legal jurisdiction located anywhere outside the geographic**
 4 **boundaries of Indiana.**

5 **Sec. 3. For purposes of this chapter, residency is determined by**
 6 **this chapter and not by reference to the law of any foreign**
 7 **jurisdiction.**

8 **Sec. 4. An individual may have residence in Indiana or in a**
 9 **foreign jurisdiction, but not in both.**

10 **Sec. 5. An individual who is a resident of Indiana under this**
 11 **chapter at a particular time during a calendar year does not lose**
 12 **the individual's status as a resident of Indiana subsequently during**
 13 **that calendar year if, at any time during the immediately following**
 14 **calendar year, the individual is a resident of Indiana under this**
 15 **chapter.**

16 **Sec. 6. An individual who lives in a foreign jurisdiction with the**
 17 **intent to make the foreign jurisdiction the individual's residence is**
 18 **not a resident of Indiana.**

19 **Sec. 7. An individual who is not a resident of Indiana under**
 20 **IC 3-5-5 is not a resident of Indiana under this chapter.**

21 **Sec. 8. (a) The following factors shall be considered when**
 22 **determining whether an individual is a resident of Indiana:**

23 **(1) Whether the individual intends to be an Indiana resident.**
 24 **Expressions of intent to be a resident of Indiana made in**
 25 **connection or contemporaneously with a determination made**
 26 **for purposes of this chapter do not support a determination**
 27 **that the individual is an Indiana resident.**

28 **(2) Whether the individual pays a tax in Indiana and the**
 29 **individual claims a status relating to the payment of the tax**
 30 **that requires the individual to be a resident of Indiana.**
 31 **However, if the individual:**

32 **(A) pays a tax in a foreign jurisdiction; and**

33 **(B) claims a status relating to the payment of the tax that**
 34 **requires the individual to be a resident of the foreign**
 35 **jurisdiction;**

36 **the individual's payment of the Indiana tax does not support**
 37 **a determination that the individual is a resident of Indiana.**

38 **(3) Whether the individual's unemancipated dependents**
 39 **attend school in Indiana.**

40 **(4) Whether the individual's immediate family lives in**
 41 **Indiana. However, if the individual's immediate family lives**
 42 **in Indiana only as a temporary location for living or for**

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- 1 transient purposes, the place where the individual's
- 2 immediate family lives does not support a determination that
- 3 the individual is a resident of Indiana.
- 4 **(5) Whether the individual is employed in Indiana or within**
- 5 **a reasonable commuting distance from the location the**
- 6 **individual claims is the individual's Indiana residence.**
- 7 **(6) Whether the individual regularly and physically conducts**
- 8 **the individual's business in Indiana or within a reasonable**
- 9 **commuting distance from the location the individual claims is**
- 10 **the individual's Indiana residence.**
- 11 **(7) Whether the individual regularly attends a place of**
- 12 **worship in Indiana.**
- 13 **(8) Whether the individual regularly spends leisure and other**
- 14 **nonworking activities in Indiana.**

- 15 **(b) The factors for determining residency set forth in subsection**
- 16 **(a) are not:**
- 17 **(1) exhaustive; or**
- 18 **(2) arranged in any order of importance.**

19 SECTION 3. IC 3-8-1-7 IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JANUARY 1, 2013]: Sec. 7. A candidate for the office
 21 of United States Senator must have:

- 22 **(1) the qualifications provided in Article 1, Section 3, Clause 3 of**
- 23 **the Constitution of the United States; and**
- 24 **(2) been a resident of Indiana during the calendar year of the**
- 25 **election and for each of the five (5) calendar years**
- 26 **immediately before the calendar year of the election.**

27 **For purposes of subdivision (2), residency shall be determined as**
 28 **provided in IC 3-5-5.5.**

29 SECTION 4. IC 3-8-1-8 IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JANUARY 1, 2013]: Sec. 8. A candidate for the office
 31 of United States Representative must have:

- 32 **(1) the qualifications provided in Article 1, Section 2, Clause 2 of**
- 33 **the Constitution of the United States; and**
- 34 **(2) been a resident of Indiana during the calendar year of the**
- 35 **election and for each of the five (5) calendar years**
- 36 **immediately before the calendar year of the election.**

37 **For purposes of subdivision (2), residency shall be determined as**
 38 **provided in IC 3-5-5.5.**

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