
HOUSE BILL No. 1099

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-4.5-3; IC 3-7-26.3; IC 3-10-1; IC 3-11-10; IC 3-11.5-4.

Synopsis: Declaration of party affiliation. Removes the requirement that a voter declare a political party affiliation before voting in a primary election. Requires that a voter be allowed to privately select the political party ballot that the voter intends to vote in a primary election. Requires that the Indiana election commission approve standards and procedures for voting methods to ensure that a voter may select privately the political party ballot that the voter intends to vote in a primary election. Repeals provisions concerning voter challenges because of political party affiliation and the handling of party identification cards used with electronic voting systems.

Effective: July 1, 2012.

Stevenson

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

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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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HOUSE BILL No. 1099



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 3-5-4.5-3, AS ADDED BY P.L.164-2006,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 3. Except as permitted in a primary election under
4 IC 3-10-1, a person may not challenge the right of an individual to vote
5 at an election in the precinct solely on the basis of the individual's
6 ~~(1) actual or perceived affiliation with a political party; or~~
7 ~~(2) support or opposition to a candidate or the adoption of a~~
8 ~~public question.~~
9 SECTION 2. IC 3-7-26.3-22 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 22. The computerized
11 list must contain at least the following information for each voter:
12 (1) The voter's voting history for at least the previous ten (10)
13 years, if available. ~~including the political party ballot requested by~~
14 ~~the voter at any primary election during the period:~~
15 (2) The source of the voter's registration application.
16 (3) A listing of all previous addresses at which the voter was
17 registered to vote during at least the previous ten (10) years, if



- 1 available.
- 2 (4) Information concerning the documentation submitted by the
- 3 voter to comply with the requirements of HAVA.
- 4 (5) Documentation of all changes to the registration made by the
- 5 voter.
- 6 (6) Documentation concerning all notices sent to the voter by the
- 7 county voter registration office.
- 8 SECTION 3. IC 3-7-26.3-29 IS AMENDED TO READ AS
- 9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 29. The computerized
- 10 list must include voter registration management features that do the
- 11 following:
- 12 (1) Automatically assign voter identification numbers in
- 13 accordance with this title.
- 14 (2) Calculate the number of registered voters by precinct or any
- 15 election district.
- 16 (3) Permit expedited web based inquiries concerning polling
- 17 place locations.
- 18 (4) Track and report all voter list maintenance transactions
- 19 performed within the system.
- 20 ~~(5) Permit tracking regarding the political party ballot requested~~
- 21 ~~by voters voting in a primary.~~
- 22 ~~(6) (5) Generate a variety of reports on paper, compact disc, or~~
- 23 ~~floppy disc format, such as walking lists, call lists, lists of voters~~
- 24 ~~by precinct, lists of voters by name, date of birth, or date of~~
- 25 ~~registration, and lists of voters by other household data.~~
- 26 ~~(7) (6) Identify voters who are currently less than eighteen (18)~~
- 27 ~~years of age.~~
- 28 ~~(8) (7) Permit electronic processing of voter registration~~
- 29 ~~information received as files from other state and federal~~
- 30 ~~agencies.~~
- 31 ~~(9) (8) Provide flexible query functions for management and~~
- 32 ~~statistical reports, including the ability of the secretary of state or~~
- 33 ~~a co-director of the election division to view individual voter~~
- 34 ~~registration records.~~
- 35 ~~(10) (9) Contain full audit controls and management reports to~~
- 36 ~~track and manage the work of county voter registration office~~
- 37 ~~employees, including the ability of the secretary of state or the~~
- 38 ~~co-directors of the election division to determine whether a~~
- 39 ~~county voter registration office is performing voter list~~
- 40 ~~maintenance functions in the manner required by IC 3-7. **this**~~
- 41 ~~**article.**~~
- 42 SECTION 4. IC 3-10-1-6 IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2012]: Sec. 6. A voter may vote at a primary
2 election

3 (1) if the voter, at the last general election, voted for a majority of
4 the regular nominees of the political party holding the primary
5 election; or

6 (2) if the voter did not vote at the last general election, but intends
7 to vote at the next general election for a majority of the regular
8 nominees of the political party holding the primary election;

9 as long as if the voter was registered as a voter at the last general
10 election or has registered since then.

11 SECTION 5. IC 3-10-1-9 IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2012]: Sec. 9. A voter in a precinct may
13 challenge a voter or person who offers to vote at a primary election.
14 The challenged person may not vote unless the challenged person:

15 (1) is registered; **and**

16 (2) makes:

17 (A) an oral or a written affirmation under IC 3-10-12; or

18 (B) an affidavit:

19 (i) that the challenged person is a voter of the precinct; or

20 (ii) required under IC 3-10-11 if the voter declares that the
21 voter is entitled to vote under IC 3-10-11. **and**

22 (3) either:

23 (A) at the last general election voted for a majority of the
24 regular nominees of the political party for whose candidates
25 the challenged person proposes to vote in the primary election
26 and intends to vote for the regular nominees of the political
27 party at the next general election; or

28 (B) if the challenged person did not vote at the last general
29 election; intends to vote at the next general election for a
30 majority of the regular nominees of the political party holding
31 the primary election.

32 SECTION 6. IC 3-10-1-10 IS REPEALED [EFFECTIVE JULY 1,
33 2012]. Sec. 10: Only a voter who is a member of the political party for
34 whose candidates a person is offering to vote at a primary election may
35 challenge the person on the ground of party affiliation.

36 SECTION 7. IC 3-10-1-10.5, AS AMENDED BY P.L.164-2006,
37 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2012]: Sec. 10.5. (a) This section does not apply to a voter
39 who is challenged under section 10 of this chapter on the basis of party
40 affiliation.

41 (b) In accordance with 42 U.S.C. 15482, a voter challenged under
42 this chapter is entitled to cast a provisional ballot under IC 3-11.7 after

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1 executing the affidavit under section 9 of this chapter.

2 SECTION 8. IC 3-10-1-24, AS AMENDED BY P.L.164-2006,
3 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 24. (a) A voter who desires to vote must give the
5 voter's name ~~and political party~~ to the poll clerks of the precinct on
6 primary election day. The poll clerks shall require the voter to write the
7 following on the poll list:

8 (1) The voter's name.

9 (2) Except as provided in subsection (d), the voter's current
10 residence address.

11 ~~(3) The name of the voter's party.~~

12 (b) The poll clerks shall:

13 (1) ask the voter to provide or update the voter's voter
14 identification number;

15 (2) tell the voter the number the voter may use as a voter
16 identification number; and

17 (3) explain to the voter that the voter is not required to provide a
18 voter identification number at the polls.

19 (c) If the voter is unable to sign the voter's name, the voter must sign
20 the poll list by mark, which must be witnessed by one (1) of the poll
21 clerks or assistant poll clerks acting under IC 3-6-6, who shall place the
22 poll clerk's or assistant poll clerk's initials after or under the mark.

23 (d) Each line on a poll list sheet provided to take a voter's current
24 residence address must include a box under the heading "Address
25 Unchanged" so that a voter whose residence address shown on the poll
26 list is the voter's current residence address may check the box instead
27 of writing the voter's current residence address on the poll list.

28 SECTION 9. IC 3-10-1-24.8 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2012]: **Sec. 24.8. (a) After a voter signs the poll list, the voter
31 shall privately select the political party ballot that the voter intends
32 to vote in the primary election as provided in section 25 or 27 of
33 this chapter.**

34 **(b) The commission shall approve standards and procedures for
35 voting methods to ensure that a voter may privately select the
36 political party ballot that the voter intends to vote in the primary
37 election.**

38 SECTION 10. IC 3-10-1-25 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. (a) If paper ballots
40 are used in a precinct, ~~one (1) of the poll clerks or assistant poll clerks~~
41 ~~shall deliver to a voter one (1) of the voter's political party ballots and~~
42 ~~a pencil after the voter signs the poll list; the voter shall take the ballot~~

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1 and pencil into an election booth **privately select the political party**
 2 **ballot that the voter intends to vote in the primary election** and
 3 mark the ballot within the time provided under IC 3-11-11-10.5.

4 (b) If a ballot card voting system is used in a precinct, one (1) of the
 5 poll clerks or assistant poll clerks shall ~~deliver to a~~ **instruct the** voter
 6 **one (1) of the voter's political party ballot cards and instructions** on
 7 how to operate the ballot card system as described in IC 3-11-13-29
 8 and IC 3-11-13-30. The voter shall ~~take the ballot card into the voting~~
 9 **booth privately select the political party ballot card that the voter**
 10 **intends to vote in the primary election** and mark the ballot within the
 11 time provided under IC 3-11-13-32.5.

12 SECTION 11. IC 3-10-1-27, AS AMENDED BY P.L.221-2005,
 13 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2012]: Sec. 27. If electronic voting systems are used in a
 15 precinct, ~~one (1) of the poll clerks shall give a printed political party~~
 16 ~~identification card to a voter after the voter signs the poll list. Before~~
 17 ~~entering the voting booth, the voter must give the party identification~~
 18 ~~card to a judge, and the judge shall set or have be able to privately~~
 19 **select the political party ballot that the voter intends to vote in the**
 20 **primary election, and** the electronic voting system ~~set to allow~~ **must**
 21 **limit** the voter to ~~vote~~ **voting** only for the candidates of the ~~voter's~~ party
 22 ~~After the system is set, that the voter selects. After selecting a~~
 23 **political party ballot on the electronic voting system,** the voter may
 24 register a vote upon ~~it~~ **the system** within the time provided under
 25 IC 3-11-14-26.

26 SECTION 12. IC 3-10-1-28 IS REPEALED [EFFECTIVE JULY 1,
 27 2012]. Sec. 28: ~~After setting the electronic voting system, the judge~~
 28 ~~shall immediately deposit the political party identification card in a~~
 29 ~~sealed container provided for that purpose. After the polls have closed,~~
 30 ~~all party identification cards shall be counted and compared with the~~
 31 ~~total number of votes cast in the election. All party identification cards~~
 32 ~~must be of durable quality and the same color irrespective of the party~~
 33 ~~that is designated.~~

34 SECTION 13. IC 3-11-10-16, AS AMENDED BY P.L.221-2005,
 35 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2012]: Sec. 16. (a) If the inspector finds under section 15 of
 37 this chapter that:

- 38 (1) the affidavit is properly executed;
 39 (2) the signatures correspond;
 40 (3) the absentee voter is a qualified voter of the precinct;
 41 (4) the absentee voter is registered and is not required to file
 42 additional information with the county voter registration office

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1 under IC 3-7-33-4.5;

2 (5) the absentee voter has not voted in person at the election; and

3 (6) in case of a primary election, if the absentee voter has not
4 previously voted, the absentee voter has executed the proper
5 declaration relative to age and qualifications; ~~and the political
6 party with which the absentee voter intends to affiliate;~~

7 then the inspector shall open the envelope containing the absentee
8 ballots so as not to deface or destroy the affidavit and take out each
9 ballot enclosed without unfolding or permitting a ballot to be unfolded
10 or examined.

11 (b) The inspector shall then hand the ballots to the judges who shall
12 deposit the ballots in the proper ballot box and enter the absentee
13 voter's name on the poll list, as if the absentee voter had been present
14 and voted in person. The judges shall mark the poll list to indicate that
15 the voter has voted by absentee ballot. If the voter has registered and
16 voted under IC 3-7-36-14, the inspector shall attach to the poll list the
17 circuit court clerk's certification that the voter has registered.

18 SECTION 14. IC 3-11-10-17, AS AMENDED BY P.L.225-2011,
19 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2012]: Sec. 17. (a) If the inspector finds under section 15 of
21 this chapter that any of the following applies, a ballot may not be
22 accepted or counted:

23 (1) The affidavit is insufficient or the ballot has not been endorsed
24 with the initials of:

25 (A) the two (2) members of the absentee voter board in the
26 office of the circuit court clerk under IC 3-11-4-19 or section
27 27 of this chapter;

28 (B) the two (2) members of the absentee voter board visiting
29 the voter under section 25(b) of the chapter; or

30 (C) the two (2) appointed members of the county election
31 board or their designated representatives under IC 3-11-4-19.

32 (2) A copy of the voter's signature has been furnished to the
33 precinct election board and that the signatures do not correspond
34 or there is no signature.

35 (3) The absentee voter is not a qualified voter in the precinct.

36 (4) The absentee voter has not registered.

37 (5) The ballot is open or has been opened and resealed. This
38 subdivision does not permit an absentee ballot transmitted by fax
39 or electronic mail under IC 3-11-4-6 to be rejected because the
40 ballot was sealed in the absentee ballot envelope by the individual
41 designated by the circuit court to receive absentee ballots
42 transmitted by fax or electronic mail.

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- 1 (6) The ballot envelope contains more than one (1) ballot of any
 2 kind for the same office or public question.
- 3 (7) In the case of a primary election, if the absentee voter has not
 4 previously voted, the voter failed to execute the proper
 5 declaration relative to age and qualifications. ~~and the political~~
 6 ~~party with which the voter intends to affiliate.~~
- 7 (8) The ballot has been challenged and not supported.
- 8 (b) Subsection (c) applies whenever a voter with a disability is
 9 unable to make a signature:
- 10 (1) on an absentee ballot application that corresponds to the
 11 voter's signature in the records of the county voter registration
 12 office; or
- 13 (2) on an absentee ballot secrecy envelope that corresponds with
 14 the voter's signature:
- 15 (A) in the records of the county voter registration office; or
 16 (B) on the absentee ballot application.
- 17 (c) The voter may request that the voter's signature or mark be
 18 attested to by:
- 19 (1) the absentee voter board under section 25(b) of this chapter;
 20 (2) a member of the voter's household; or
 21 (3) an individual serving as attorney in fact for the voter.
- 22 (d) An attestation under subsection (c) provides an adequate basis
 23 for an inspector to determine that a signature or mark complies with
 24 subsection (a)(2).
- 25 SECTION 15. IC 3-11.5-4-12, AS AMENDED BY P.L.225-2011,
 26 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2012]: Sec. 12. (a) If the absentee ballot counters find under
 28 section 11 of this chapter that:
- 29 (1) the affidavit is properly executed;
 30 (2) the signatures correspond;
 31 (3) the absentee voter is a qualified voter of the precinct;
 32 (4) the absentee voter is registered and is not required to file
 33 additional information with the county voter registration office
 34 under IC 3-7-33-4.5; and
 35 (5) in case of a primary election, if the absentee voter has not
 36 previously voted, the absentee voter has executed the proper
 37 declaration relative to age and qualifications; ~~and the political~~
 38 ~~party with which the absentee voter intends to affiliate;~~
 39 the absentee ballot counters shall open the envelope containing the
 40 absentee ballots so as not to deface or destroy the affidavit and take out
 41 each ballot enclosed without unfolding or permitting a ballot to be
 42 unfolded or examined.



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1 (b) If the absentee ballot counters find under subsection (a) that the
 2 voter has not filed the additional information required to be filed with
 3 the county voter registration office under IC 3-7-33-4.5, but that all of
 4 the other findings listed under subsection (a) apply, the absentee ballot
 5 shall be processed as a provisional ballot under IC 3-11.7.

6 (c) The absentee ballot counters shall then deposit the ballots in a
 7 secure envelope with the name of the precinct set forth on the outside
 8 of the envelope. After the absentee ballot counters or the county
 9 election board has made the findings described in subsection (a) or
 10 section 13 of this chapter for all absentee ballots of the precinct, the
 11 absentee ballot counters shall remove all the ballots deposited in the
 12 envelope under this section for counting under IC 3-11.5-5 or
 13 IC 3-11.5-6.

14 SECTION 16. IC 3-11.5-4-13, AS AMENDED BY P.L.198-2005,
 15 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2012]: Sec. 13. (a) If the absentee ballot counters find under
 17 section 11 of this chapter that any of the following applies, the ballots
 18 shall be rejected:

19 (1) The affidavit is insufficient or that the ballot has not been
 20 endorsed with the initials of:

21 (A) the two (2) members of the absentee voter board in the
 22 office of the clerk of the circuit court under IC 3-11-4-19 or
 23 IC 3-11-10-27;

24 (B) the two (2) members of the absentee voter board visiting
 25 the voter under IC 3-11-10-25; or

26 (C) the two (2) appointed members of the county election
 27 board or their designated representatives under IC 3-11-4-19.

28 (2) The signatures do not correspond or there is no signature.

29 (3) The absentee voter is not a qualified voter in the precinct.

30 (4) The absentee voter has voted in person at the election.

31 (5) The absentee voter has not registered.

32 (6) The ballot is open or has been opened and resealed. This
 33 subdivision does not permit an absentee ballot transmitted by fax
 34 or electronic mail under IC 3-11-4-6 to be rejected because the
 35 ballot was sealed in the absentee ballot envelope by the individual
 36 designated by the circuit court to receive absentee ballots
 37 transmitted by fax or electronic mail.

38 (7) The ballot envelope contains more than one (1) ballot of any
 39 kind for the same office or public question.

40 (8) In case of a primary election, if the absentee voter has not
 41 previously voted, the voter failed to execute the proper
 42 declaration relative to age and qualifications. ~~and the political~~

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1 party with which the voter intends to affiliate.
2 (9) The ballot has been challenged and not supported.
3 (b) Subsection (c) applies whenever a voter with a disability is
4 unable to make a signature:
5 (1) on an absentee ballot application that corresponds to the
6 voter's signature in the records of the county voter registration
7 office; or
8 (2) on an absentee ballot security envelope that corresponds with
9 the voter's signature:
10 (A) in the records of the county voter registration office; or
11 (B) on the absentee ballot application.
12 (c) The voter may request that the voter's signature or mark be
13 attested to by any of the following:
14 (1) The absentee voter board under section 22 of this chapter.
15 (2) A member of the voter's household.
16 (3) An individual serving as attorney in fact for the voter.
17 (d) An attestation under subsection (c) provides an adequate basis
18 for the absentee ballot counters to determine that a signature or mark
19 complies with subsection (a)(2).
20 (e) If the absentee ballot counters are unable to agree on a finding
21 described under this section or section 12 of this chapter, the county
22 election board shall make the finding.
23 (f) The absentee ballot counters or county election board shall issue
24 a certificate to a voter whose ballot has been rejected under this section
25 if the voter appears in person before the board not later than 5 p.m. on
26 election day. The certificate must state that the voter's absentee ballot
27 has been rejected and that the voter may vote in person under section
28 21 of this chapter if otherwise qualified to vote.

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