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# HOUSE BILL No. 1208

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 2-3-4; IC 2-4-2; IC 2-5-3-6.

**Synopsis:** Oath requirement for legislative testimony. Requires the chair or acting chair of: (1) a standing committee of the house or the senate; (2) a joint committee of the house and the senate; or (3) a committee established by statute or by the legislative council that meets certain requirements; to administer an oath, affirmed under the penalties for perjury, to each witness giving testimony to the committee. Prescribes the substantial form of the oath. Provides that the legislative council may prescribe different forms of the oath to make the form of the oath suitable to different circumstances under which the oath may be taken. Provides that a witness before a committee may state the oath orally in the presence of the chair or acting chair or give the oath in the form of a writing signed and dated by the witness. Provides that the legislative council may determine whether probable cause exists that a witness violated the witness's oath. Provides that a prosecuting attorney may not bring a criminal action for violation of a witness's oath except by referral from the legislative council. Makes conforming changes to a statute that gives members of the general assembly notarial powers.

**Effective:** July 1, 2012.

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## Eberhart

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January 9, 2012, read first time and referred to Committee on Rules and Legislative Procedures.

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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. 1208



A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

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

1 SECTION 1. IC 2-3-4-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) ~~Any~~ **A** member of the general  
3 assembly, the principal clerk of the house of representatives, or the  
4 secretary of the senate may **do any of the following**:  
5 (1) Take acknowledgment to deeds or other instruments in  
6 writing.  
7 (2) Administer oaths, protest notes, and checks.  
8 (3) Take the deposition of a witness.  
9 (4) Take and certify affidavits and depositions. ~~and~~  
10 (5) Perform any other duty conferred upon a notary public by the  
11 statutes of Indiana.  
12 (b) Acknowledgments to deeds or other instruments taken by ~~any~~  
13 ~~such person shall~~ **an individual described in subsection (a)** entitle  
14 such deeds or other instruments to be recorded the same as though  
15 acknowledged before a notary public.  
16 SECTION 2. IC 2-3-4-2 IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2012]: Sec. 2. ~~No member of the general~~



1 assembly shall be **(a) This section does not apply to an oath that a**  
 2 **member of the general assembly is required to administer under**  
 3 **IC 2-4-2-1.**

4 **(b) An individual** authorized to perform any of the duties  
 5 mentioned in section 1 of this chapter ~~until he shall have procured such~~  
 6 **may not perform any of those duties until the individual obtains a**  
 7 seal as will stamp upon paper a distinct impression, in words or letters,  
 8 sufficiently indicating ~~his~~ **the individual's** official character, to which  
 9 may be added such other device as ~~he~~ **the individual** may choose. ~~All~~  
 10 acts

11 **(c) An act mentioned in section 1 of this chapter** not attested by  
 12 ~~such a seal shall be void:~~ **required by subsection (b) is invalid.**

13 SECTION 3. IC 2-3-4-3 IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2012]: Sec. 3. ~~It shall be the duty of every~~  
 15 ~~member of the general assembly~~ **(a) An individual** performing any of  
 16 the acts ~~as set forth~~ **mentioned in section 1** of this chapter, at the time  
 17 of signing any certificates of acknowledgment of a deed, mortgage or  
 18 other instrument, or any jurat or other official document, ~~to append to~~  
 19 ~~such~~ **must state on the** certificate the date of his following:

20 "My authority expires on \_\_\_\_\_ **(with the blank filled with**  
 21 **the date of the next general election to for members of the**  
 22 **general assembly).**".

23 **(b) The jurisdiction authority of any such member an individual**  
 24 to perform the duties ~~herein~~ mentioned ~~shall be in section 1 of this~~  
 25 **chapter is** coextensive with the state of Indiana.

26 SECTION 4. IC 2-3-4-4 IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2012]: Sec. 4. ~~Any such member~~ **(a) An**  
 28 **individual** performing any of the acts ~~or duties hereunder~~ ~~shall be~~  
 29 **mentioned in section 1 of this chapter is** entitled to the same fees as  
 30 those charged by notaries public. ~~and where any~~

31 **(b) If an** act by a notary public would be a violation of the law, it  
 32 ~~shall likewise be the same act done by an individual authorized by~~  
 33 **this chapter is** a violation of the law. ~~if committed by a member of said~~  
 34 ~~general assembly in the performance of any of the duties or acts~~  
 35 ~~authorized hereunder. All laws and parts of laws in conflict herewith~~  
 36 ~~are hereby repealed.~~

37 SECTION 5. IC 2-4-2-0.3 IS ADDED TO THE INDIANA CODE  
 38 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
 39 1, 2012]: Sec. **0.3. As used in this chapter, "committee" refers to**  
 40 **any of the following:**

41 **(1) A standing or other committee established by the rules of**  
 42 **the house of representatives or the senate.**

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- 1           (2) A committee established jointly by the house of
- 2           representatives and the senate.
- 3           (3) A committee established by statute or by the legislative
- 4           council that satisfies any of the following:
- 5                 (A) A majority of the members of the committee are
- 6                 members of the general assembly.
- 7                 (B) The committee chair is a member of the general
- 8                 assembly.
- 9                 (C) The statute or resolution establishing the committee
- 10                specifies that this chapter applies to the committee's work.

11           SECTION 6. IC 2-4-2-1 IS AMENDED TO READ AS FOLLOWS  
 12 [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) ~~The chairman, chair or acting~~  
 13 ~~chairman for the time being, chair of any a committee appointed by~~  
 14 ~~either house or by the joint action of the two (2) houses, of the general~~  
 15 ~~assembly of this state be and is hereby authorized to administer all~~  
 16 ~~oaths necessary to be administered to witnesses testifying or called to~~  
 17 ~~testify before such shall administer an oath to each witness who~~  
 18 ~~gives testimony to the committee.~~

19           (b) The oath required by this section must be in substantially the  
 20 following form:

21                 "I, (insert the name of the witness), affirm under the penalties  
 22                 for perjury that the testimony that I am about to give or have  
 23                 given to (insert the name of the committee) is the truth to the  
 24                 best of my knowledge and belief."

25           (c) The legislative council may prescribe different forms of the  
 26 oath to make the form of the oath suitable to different  
 27 circumstances under which the oath may be taken. A form of the  
 28 oath prescribed under this subsection must be substantially the  
 29 same as the oath prescribed by subsection (b).

30           (d) The oath required by this section may be:

- 31                 (1) stated orally by the witness in the presence of the chair or
- 32                 acting chair; or
- 33                 (2) in the form of a writing signed and dated by the witness
- 34                 and placed in the records of the committee.

35           SECTION 7. IC 2-4-2-2 IS ADDED TO THE INDIANA CODE AS  
 36 A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 37 2012]: Sec. 2. (a) If a committee member believes that a witness has  
 38 violated the oath required by section 1 of this chapter, the  
 39 committee member may bring the matter to the attention of the  
 40 committee's chair.

41           (b) If the committee chair agrees there is probable cause to  
 42 believe that the witness has violated the witness's oath, the

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1 **committee chair and the committee member may file a complaint**  
 2 **with the legislative council for a determination.**

3 **(c) A complaint under subsection (b) must:**

4 **(1) be in writing;**

5 **(2) give the name of the witness who is believed to have**  
 6 **violated the oath;**

7 **(3) state the basis for the belief that the witness has violated**  
 8 **the witness's oath;**

9 **(4) contain any other information required by the legislative**  
 10 **council; and**

11 **(5) be signed by the chair and the committee member making**  
 12 **the complaint.**

13 **(d) If the legislative council finds there is probable cause to**  
 14 **believe that the witness has violated the witness's oath, the**  
 15 **legislative council may refer the matter to an appropriate**  
 16 **prosecuting attorney.**

17 **(e) A prosecuting attorney may not bring a criminal action for**  
 18 **violation of section 1 of this chapter without a referral by the**  
 19 **legislative council.**

20 SECTION 8. IC 2-5-3-6 IS AMENDED TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) The commission may, for the  
 22 purpose of carrying out the provisions of this chapter, hold such  
 23 hearings and sit and act at such times and places, and take such  
 24 testimony, as the commission ~~may deem~~ **considers** advisable. ~~Any~~  
 25 ~~member of the commission may administer oaths or affirmations to~~  
 26 ~~witnesses appearing before the commission.~~ **An oath shall be**  
 27 **administered to each witness who gives testimony to the committee**  
 28 **as provided in IC 2-4-2.**

29 (b) The commission may secure directly from any executive or  
 30 administrative department, bureau, agency, board, commission, office,  
 31 independent establishment or instrumentality, information, suggestions,  
 32 estimates, and statistics for the purpose of this chapter. Such a  
 33 department, bureau, agency, board, commission, office, establishment  
 34 or instrumentality of any state or local governmental unit in the state of  
 35 Indiana is authorized and directed to furnish such information,  
 36 suggestions, estimates, and statistics directly to the commission, as the  
 37 chairman of the commission may request.

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