



January 24, 2012

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## SENATE BILL No. 175

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DIGEST OF SB 175 (Updated January 23, 2012 12:07 pm - DI 102)

**Citations Affected:** IC 3-11; noncode.

**Synopsis:** Absentee ballot applications. Requires the election commission to modify the absentee ballot application form to request that a voter provide the last four digits of the voter's Social Security number or state that the voter does not have a Social Security number. Provides that a voter's failure to provide the requested information does not affect the voter's ability to receive an absentee ballot. Urges the legislative council to assign to a study committee during the 2012 legislative interim the topics of: (1) ballot security for an absentee ballot transmitted to and from a voter by mail; and (2) connection of the statewide voter registration list and files maintained by the department of state revenue.

**Effective:** July 1, 2012.

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**Young R Michael**

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January 4, 2012, read first time and referred to Committee on Elections.  
January 23, 2012, amended, reported favorably — Do Pass.

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SB 175—LS 6473/DI 102+



January 24, 2012

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

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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.

SB 175—LS 6473/DI 102+



- 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) A form submitted by a voter after June 30, 2012, must**  
16 **conform to this subsection. The form prescribed by the commission**  
17 **must request that a voter who requests an absentee ballot:**

- 18 **(1) provide the last four (4) digits of the voter's Social Security**
- 19 **number; or**
- 20 **(2) state that the voter does not have a Social Security**
- 21 **number.**

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

- 27 (1) The voter's name.
- 28 (2) The date the application is received.
- 29 **(3) The information provided by the voter under section 5.1(d)**
- 30 **of this chapter.**
- 31 ~~(4)~~ **(4)** The date the ballot is sent to the voter.
- 32 ~~(5)~~ **(5)** If mailed, the address to which the ballot is sent.
- 33 ~~(6)~~ **(6)** If transmitted by fax, the fax number to which the ballot is
- 34 faxed.
- 35 ~~(7)~~ **(7)** The date the ballot is marked before the clerk or otherwise
- 36 received from the voter.
- 37 ~~(7)~~ **(8)** The combined total number of absentee ballots sent by the
- 38 county to absent uniformed services voters and overseas voters.
- 39 ~~(8)~~ **(9)** The total number of absentee ballots returned by voters
- 40 described in subdivision ~~(7)~~ **(8)** in time to be counted.
- 41 ~~(9)~~ **(10)** The total number of absentee ballots described in
- 42 subdivision ~~(7)~~ **(8)** that were counted in whole or in part.

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1           ~~(10)~~ **(11)** Any other information that is necessary or advisable.

2           SECTION 4. IC 3-11-4-17.5, AS AMENDED BY P.L.164-2006,  
3           SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4           JULY 1, 2012]: Sec. 17.5. (a) Upon receiving an application for an  
5           absentee ballot, the county election board (or the absentee voter board  
6           in the office of the circuit court clerk) shall determine if:

7           (1) the applicant is a voter of the precinct in which the applicant  
8           resides, according to the records of the county voter registration  
9           office;

10          (2) the information set forth on the application appears to be true;  
11          and

12          (3) the application has been completed and filed in accordance  
13          with Indiana and federal law.

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

21          (b) If:

22          (1) the applicant is not a voter of the precinct according to the  
23          registration record; or

24          (2) the application as completed and filed:

25                  (A) contains a false statement; or

26                  (B) does not otherwise comply with Indiana or federal law;  
27          as alleged under section 18.5 of this chapter, the county election board  
28          shall deny the application.

29          **(c) A voter's failure to provide the information requested under  
30          section 5.1(d) of this chapter does not affect a voter's ability to  
31          receive an absentee ballot. A county election board may not deny  
32          an application because the voter has not provided the information  
33          requested under section 5.1(d) of this chapter as a part of the  
34          voter's application for an absentee ballot.**

35          ~~(e)~~ **(d)** This subsection applies to an absentee ballot application  
36          submitted by an absent uniformed services voter or an overseas voter.  
37          In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied,  
38          the county election board shall provide the voter with the reasons for  
39          the denial of the application. Unless the voter is present when the board  
40          denies the application, the board shall send a written notice stating the  
41          reasons for the denial to the voter. The notice must be sent:

42          (1) not later than forty-eight (48) hours after the application is

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1 denied; and  
 2 (2) to the voter at the address at which the voter requested that the  
 3 absentee ballot be mailed.

4 ~~(d)~~ (e) If the county election board determines that the applicant is  
 5 a voter of the precinct under subsection (a), the board shall then  
 6 determine whether:

7 (1) the applicant was required to file any additional  
 8 documentation under IC 3-7-33-4.5; and

9 (2) the applicant has filed this documentation according to the  
 10 records of the county voter registration office.

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

18 ~~(e)~~ (f) If the applicant:

19 (1) is a voter of the precinct according to the registration record;

20 (2) states on the application that the applicant resides at an  
 21 address that is within the same precinct but is not the same  
 22 address shown on the registration record; and

23 (3) provides a voter identification number on the application to  
 24 permit transfer of registration under IC 3-7-13-13;

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

30 SECTION 5. [EFFECTIVE JULY 1, 2012] (a) **As used in this**  
 31 **SECTION, "legislative council" refers to the legislative council**  
 32 **established by IC 2-5-1.1-1.**

33 (b) **As used in this SECTION, "study committee" means either**  
 34 **of the following:**

35 (1) **A statutory committee established under IC 2-5.**

36 (2) **An interim study committee.**

37 (c) **The legislative council is urged to assign the following topics**  
 38 **to a study committee during the 2012 legislative interim:**

39 (1) **Ballot security for an absentee ballot transmitted to and**  
 40 **from a voter by mail.**

41 (2) **Connection of the statewide voter registration list**  
 42 **established under IC 3-7-26.3 and files maintained by the**

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1            **department of state revenue.**  
2            **(d) If the topics described in subsection (c) are assigned to a**  
3            **study committee, the study committee shall issue a final report to**  
4            **the legislative council containing the study committee's findings**  
5            **and recommendations, including any recommended legislation**  
6            **concerning the topics, in an electronic format under IC 5-14-6 not**  
7            **later than November 1, 2012.**  
8            **(e) This SECTION expires December 31, 2012.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 175, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 15, after "(d)" insert "**A form submitted by a voter after June 30, 2012, must conform to this subsection.**".

Page 4, line 15, delete "require" and insert "**request**".

Page 4, line 16, delete ", except for a voter" and insert ":

**(1) provide the last four (4) digits of the voter's Social Security number; or**

**(2) state that the voter does not have a Social Security number.**".

Page 4, delete lines 17 through 18.

Page 4, line 26, delete "The voter identification number required under section" and insert "**The information provided by the voter under section 5.1(d) of this chapter.**".

Page 4, delete line 27.

Page 5, line 26, delete "This subsection does not apply to a voter submitting an" and insert "**A voter's failure to provide the information requested under section 5.1(d) of this chapter does not affect a voter's ability to receive an absentee ballot. A county election board may not deny an application because the voter has not provided the information requested under section 5.1(d) of this chapter as a part of the voter's application for an absentee ballot.**".

Page 5, delete lines 27 through 37.

Page 6, delete lines 33 through 42.

Page 7, delete lines 1 through 2, begin a new paragraph and insert: "SECTION 5. [EFFECTIVE JULY 1, 2012] **(a) As used in this SECTION, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.**

**(b) As used in this SECTION, "study committee" means either of the following:**

**(1) A statutory committee established under IC 2-5.**

**(2) An interim study committee.**

**(c) The legislative council is urged to assign the following topics to a study committee during the 2012 legislative interim:**

**(1) Ballot security for an absentee ballot transmitted to and from a voter by mail.**

**(2) Connection of the statewide voter registration list established under IC 3-7-26.3 and files maintained by the department of state revenue.**



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**(d) If the topics described in subsection (c) are assigned to a study committee, the study committee shall issue a final report to the legislative council containing the study committee's findings and recommendations, including any recommended legislation concerning the topics, in an electronic format under IC 5-14-6 not later than November 1, 2012.**

**(e) This SECTION expires December 31, 2012."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 175 as introduced.)

LANDSKE, Chairperson

Committee Vote: Yeas 8, Nays 0.

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