

SENATE BILL No. 366

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-1; IC 3-11; IC 3-11.5; IC 3-11.7-5.

Synopsis: Proof of identification for absentee voters. Provides that a voter who votes at a licensed care facility in which the voter lives must give proof of identification. (Under current law, such a voter is exempt from the proof of identification requirement.) Requires a voter who casts an absentee ballot by mail (other than a military or overseas voter or an address confidentiality voter) to provide a photocopy of the voter's proof of identification in the mailing envelope.

Effective: July 1, 2013.

Head

January 8, 2013, read first time and referred to Committee on Elections.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 366



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 3-10-1-7.2, AS AMENDED BY P.L.53-2009,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 7.2. (a) ~~Except as provided in subsection (c)~~; A
 4 voter who desires to vote an official ballot at a primary election shall
 5 provide proof of identification.
 6 (b) ~~Except as provided in subsection (c)~~; Before the voter proceeds
 7 to vote in a primary election, a precinct election officer shall ask the
 8 voter to provide proof of identification. The voter must produce the
 9 proof of identification before being permitted to sign the poll list.
 10 (c) If:
 11 (1) the voter is unable or declines to present the proof of
 12 identification; or
 13 (2) a member of the precinct election board determines that the
 14 proof of identification presented by the voter does not qualify as
 15 proof of identification under IC 3-5-2-40.5;
 16 a member of the precinct election board shall challenge the voter as
 17 prescribed by IC 3-11-8.



1 (d) If the voter executes a challenged voter's affidavit under section
2 9 of this chapter or IC 3-11-8-22.1, the voter may:

- 3 (1) sign the poll list; and
4 (2) receive a provisional ballot.

5 (e) ~~A voter who votes in person at a precinct polling place that is
6 located at a state licensed care facility where the voter resides is not
7 required to provide proof of identification before voting in a primary
8 election.~~

9 SECTION 2. IC 3-10-1-31.1, AS AMENDED BY P.L.141-2011,
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2013]: Sec. 31.1. (a) This section applies only to election
12 materials for elections held after December 31, 2003.

13 (b) The inspector of each precinct shall deliver the bags required by
14 section 30(a) and 30(c) of this chapter in good condition, together with
15 poll lists, tally sheets, and other forms, to the circuit court clerk when
16 making returns.

17 (c) Except for unused ballots disposed of under IC 3-11-3-31 or
18 affidavits received by the county election board under IC 3-14-5-2 for
19 delivery to the foreman of a grand jury, the circuit court clerk shall seal
20 the ballots (including provisional ballots) and other material (including
21 election material related to provisional ballots) during the time allowed
22 to file a verified petition or cross-petition for a recount of votes or to
23 contest the election. Except as provided in ~~subsection~~ **subsections (d)**
24 **and (h)**, and notwithstanding any other provision of ~~state~~ **Indiana** law,
25 after the recount or contest filing period, the election material,
26 including election material related to provisional ballots (except for
27 ballots and provisional ballots, which remain confidential) shall be
28 made available for copying and inspection under IC 5-14-3. The circuit
29 court clerk shall carefully preserve the sealed ballots and other material
30 for twenty-two (22) months, as required by 42 U.S.C. 1974, after which
31 the sealed ballots and other material are subject to IC 5-15-6 unless an
32 order issued under:

- 33 (1) IC 3-12-6-19 or IC 3-12-11-16; or
34 (2) 42 U.S.C. 1973;

35 requires the continued preservation of the ballots or other material.

36 (d) If a petition for a recount or contest is filed, the material for that
37 election remains confidential until completion of the recount or contest.

38 (e) Upon delivery of the poll lists, the county voter registration
39 office may unseal the envelopes containing the poll lists. For the
40 purposes of:

- 41 (1) a cancellation of registration conducted under IC 3-7-43
42 through IC 3-7-46;

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1 (2) a transfer of registration conducted under IC 3-7-39,
2 IC 3-7-40, or IC 3-7-42;

3 (3) a change of name made under IC 3-7-41;

4 (4) adding the registration of a voter under IC 3-7-48-8; or

5 (5) recording that a voter subject to IC 3-7-33-4.5 submitted the
6 documentation required under 42 U.S.C. 15483 and IC 3-11-8 or
7 IC 3-11-10;

8 the county voter registration office may inspect the poll lists and update
9 the registration record of the county. The county voter registration
10 office shall use the poll lists to update the registration record to include
11 the voter's voter identification number if the voter's voter identification
12 number is not already included in the registration record. Upon
13 completion of the inspection, the poll list shall be preserved with the
14 ballots and other materials in the manner prescribed by subsection (c)
15 for the period prescribed by subsections (c) and (d).

16 (f) This subsection does not apply to ballots, including provisional
17 ballots. Notwithstanding subsection (c), if a county voter registration
18 office determines that the inspection and copying of precinct election
19 material would reveal the political parties, candidates, and public
20 questions for which an individual cast an absentee ballot, the county
21 voter registration office shall keep confidential only that part of the
22 election material necessary to protect the secrecy of the voter's ballot.
23 In addition, the county voter registration office shall keep confidential
24 information contained in material related to provisional ballots that
25 identifies an individual, except for the individual's name, address, and
26 birth date.

27 (g) After the expiration of the period described in subsection (c) or
28 (d), the ballots may be destroyed in the manner provided by
29 IC 3-11-3-31 or transferred to a state educational institution as
30 provided by IC 3-12-2-12.

31 **(h) A copy of a voter's proof of identification is confidential.**
32 **After twenty-two (22) months, all copies of voter proofs of**
33 **identification shall be destroyed unless an order issued under:**

34 **(1) IC 3-12-6-19 or IC 3-12-11-16; or**

35 **(2) 42 U.S.C. 1973;**

36 **requires continued preservation of the copies.**

37 SECTION 3. IC 3-11-4-18, AS AMENDED BY P.L.66-2010,
38 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2013]: Sec. 18. (a) If a voter satisfies any of the qualifications
40 described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot
41 by mail, the county election board shall, at the request of the voter, mail
42 the official ballot, postage fully prepaid, to the voter at the address

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1 stated in the application.

2 (b) If the county election board mails an absentee ballot to a voter
3 required to file additional documentation with the county voter
4 registration office before voting by absentee ballot under this chapter,
5 the board shall include a notice to the voter **in the envelope with the**
6 **materials** mailed to the voter under section 20 of this chapter. The
7 notice must inform the voter that the voter must file the additional
8 documentation required under IC 3-7-33-4.5 with the county voter
9 registration office not later than noon on election day for the absentee
10 ballot to be counted as an absentee ballot, and that, if the
11 documentation required under IC 3-7-33-4.5 is filed after noon and
12 before 6 p.m. on election day, the ballot will be processed as a
13 provisional ballot. The commission shall prescribe the form of this
14 notice under IC 3-5-4-8.

15 (c) Except as provided in section 18.5 of this chapter, the ballot
16 shall be mailed:

- 17 (1) on the day of the receipt of the voter's application; or
18 (2) not more than five (5) days after the date of delivery of the
19 ballots under section 15 of this chapter;

20 whichever is later.

21 (d) As required by 42 U.S.C. 15481, an election board shall
22 establish a voter education program (specific to a paper ballot or
23 optical scan ballot card provided as an absentee ballot under this
24 chapter) to notify a voter of the effect of casting multiple votes for a
25 single office.

26 (e) As provided by 42 U.S.C. 15481, when an absentee ballot is
27 mailed under this section, the mailing must include:

- 28 (1) information concerning the effect of casting multiple votes for
29 an office; and
30 (2) instructions on how to correct the ballot before the ballot is
31 cast and counted, including the issuance of replacement ballots.

32 SECTION 4. IC 3-11-4-20 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 20. **Whenever a**
34 **county election board mails an** absentee ballot ~~mailed to a voter~~
35 under section 18 of this chapter, ~~shall be enclosed in an the mailing~~
36 **must include the following:**

37 (1) **A mailing** envelope, unsealed and stamped for return to the
38 county election board by at least first class mail. One (1) side of
39 the envelope must bear the name, official title, and post office
40 address of the county election board. The pre-addressed, stamped
41 envelope shall be furnished by the county election board.

42 (2) **The official ballot.**

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- 1 **(3) A ballot envelope in which the voter will place the voter's**
 2 **absentee ballot.**
- 3 **(4) The notice described in section 18(b) of this chapter, if the**
 4 **notice is required.**
- 5 **(5) Instructions to the voter telling the voter to place a copy of**
 6 **the voter's proof of identification in the mailing envelope, but**
 7 **not in the ballot envelope. The instructions must inform the**
 8 **voter of the types of identification that qualify as proof of**
 9 **identification under IC 3-5-2-40.5. This subdivision does not**
 10 **apply if the voter is an absent uniformed services voter, an**
 11 **overseas voter, or an address confidentiality program**
 12 **participant.**
- 13 SECTION 5. IC 3-11-8-25.1, AS AMENDED BY P.L.53-2009,
 14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2013]: Sec. 25.1. (a) ~~Except as provided in subsection (e);~~ A
 16 voter who desires to vote an official ballot at an election shall provide
 17 proof of identification.
- 18 (b) ~~Except as provided in subsection (e);~~ Before the voter proceeds
 19 to vote in the election, a precinct election officer shall ask the voter to
 20 provide proof of identification. The voter shall produce the proof of
 21 identification before being permitted to sign the poll list.
- 22 (c) If:
- 23 (1) the voter is unable or declines to present the proof of
 24 identification; or
- 25 (2) a member of the precinct election board determines that the
 26 proof of identification provided by the voter does not qualify as
 27 proof of identification under IC 3-5-2-40.5;
- 28 a member of the precinct election board shall challenge the voter as
 29 prescribed by this chapter.
- 30 (d) If the voter executes a challenged voter's affidavit under section
 31 22.1 of this chapter, the voter may:
- 32 (1) sign the poll list; and
- 33 (2) receive a provisional ballot.
- 34 (e) ~~A voter who votes in person at a precinct polling place that is~~
 35 ~~located at a state licensed care facility where the voter resides is not~~
 36 ~~required to provide proof of identification before voting in an election.~~
- 37 ~~(f)~~ (e) After a voter has passed the challengers or has been sworn in,
 38 the voter shall be instructed by a member of the precinct election board
 39 to proceed to the location where the poll clerks are stationed. The voter
 40 shall announce the voter's name to the poll clerks or assistant poll
 41 clerks. A poll clerk, an assistant poll clerk, or a member of the precinct
 42 election board shall require the voter to write the following on the poll

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1 list:

- 2 (1) The voter's name.
 3 (2) Except as provided in subsection ~~(k)~~, (j), the voter's current
 4 residence address.

5 ~~(g)~~ (f) The poll clerk, an assistant poll clerk, or a member of the
 6 precinct election board shall:

- 7 (1) ask the voter to provide or update the voter's voter
 8 identification number;
 9 (2) tell the voter the number the voter may use as a voter
 10 identification number; and
 11 (3) explain to the voter that the voter is not required to provide or
 12 update a voter identification number at the polls.

13 ~~(h)~~ (g) The poll clerk, an assistant poll clerk, or a member of the
 14 precinct election board shall ask the voter to provide proof of
 15 identification.

16 ~~(i)~~ (h) In case of doubt concerning a voter's identity, the precinct
 17 election board shall compare the voter's signature with the signature on
 18 the affidavit of registration or any certified copy of the signature
 19 provided under IC 3-7-29. If the board determines that the voter's
 20 signature is authentic, the voter may then vote. If either poll clerk
 21 doubts the voter's identity following comparison of the signatures, the
 22 poll clerk shall challenge the voter in the manner prescribed by section
 23 21 of this chapter.

24 ~~(j)~~ (i) If, in a precinct governed by subsection ~~(g)~~: (f):
 25 (1) the poll clerk does not execute a challenger's affidavit; or
 26 (2) the voter executes a challenged voter's affidavit under section
 27 22.1 of this chapter or executed the affidavit before signing the
 28 poll list;

29 the voter may then vote.

30 ~~(k)~~ (j) Each line on a poll list sheet provided to take a voter's current
 31 address must include a box under the heading "Address Unchanged"
 32 so that a voter whose residence address shown on the poll list is the
 33 voter's current residence address may check the box instead of writing
 34 the voter's current residence address on the poll list.

35 SECTION 6. IC 3-11-10-1, AS AMENDED BY P.L.198-2005,
 36 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2013]: Sec. 1. (a) A voter voting by absentee ballot shall make
 38 and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter
 39 then shall, except as provided in subsection (b), do the following:

- 40 (1) Mark the ballot in the presence of no other person.
 41 (2) Fold each ballot separately.
 42 (3) Fold each ballot so as to conceal the marking.



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- 1 (4) Enclose each ballot, with the seal and signature of the circuit
 2 court clerk on the outside together with any unused ballot in the
 3 **ballot** envelope provided.
 4 (5) Securely seal the **ballot** envelope.
 5 **(6) Place the sealed ballot envelope and a copy of the voter's**
 6 **proof of identification (outside of the sealed ballot envelope)**
 7 **in the mailing envelope and securely seal the mailing**
 8 **envelope.**
 9 ~~(6)~~ (7) Do one (1) of the following:
 10 (A) Mail the **mailing** envelope to the county election board,
 11 with not more than one (1) ballot per envelope.
 12 (B) Deliver the **mailing** envelope to the county election board
 13 in person.
 14 (C) Deliver the **mailing** envelope to a member of the voter's
 15 household or a person designated as the attorney in fact for the
 16 voter under IC 30-5 for delivery to the county election board:
 17 (i) in person;
 18 (ii) by United States mail; or
 19 (iii) by a bonded courier company.
 20 (b) A voter permitted to transmit the voter's absentee ballots by fax
 21 or electronic mail under IC 3-11-4-6 is not required to comply with
 22 subsection (a). The individual designated by the circuit court clerk to
 23 receive absentee ballots transmitted by fax or electronic mail shall do
 24 the following upon receipt of an absentee ballot transmitted by fax:
 25 (1) Note the receipt of the absentee ballot in the records of the
 26 circuit court clerk as other absentee ballots received by the circuit
 27 court clerk are noted.
 28 (2) Fold each ballot received from the voter separately so as to
 29 conceal the marking.
 30 (3) Enclose each ballot in a blank absentee ballot envelope.
 31 (4) Securely seal the envelope.
 32 (5) Mark on the envelope: "Absentee Ballot Received by Fax or
 33 Electronic Mail".
 34 (6) Securely attach to the envelope the faxed affidavit received
 35 with the voter's absentee ballots.
 36 (c) Except as otherwise provided in this title, absentee ballots
 37 received by fax or electronic mail shall be handled and processed as
 38 other absentee ballots received by the circuit court clerk are handled
 39 and processed.
 40 SECTION 7. IC 3-11-10-1.2 IS REPEALED [EFFECTIVE JULY
 41 1, 2013]. ~~Sec. 1.2. An absentee voter is not required to provide proof~~
 42 ~~of identification when:~~

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- 1 ~~(1) mailing, delivering, or transmitting an absentee ballot under~~
- 2 ~~section 1 of this chapter; or~~
- 3 ~~(2) voting before an absentee board under section 25 of this~~
- 4 ~~chapter.~~

5 SECTION 8. IC 3-11-10-4, AS AMENDED BY P.L.198-2005,
 6 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2013]: Sec. 4. (a) Upon receipt of an absentee ballot, a county
 8 election board (or the absentee voter board in the office of the circuit
 9 court clerk) shall immediately examine the signature of the absentee
 10 voter to determine its genuineness.

11 (b) This subsection does not apply to an absentee ballot cast by a
 12 voter permitted to transmit the voter's absentee ballots by fax or
 13 electronic mail under IC 3-11-4-6. The board shall **do the following:**

- 14 **(1) Compare the signature as it appears upon the ballot envelope**
- 15 **containing the absentee ballot with the signature of the voter as it**
- 16 **appears upon the application for the absentee ballot. The board**
- 17 **may also compare the signature on the ballot envelope with any**
- 18 **other admittedly genuine signature of the voter.**

- 19 **(2) Determine whether the voter's proof of identification**
- 20 **qualifies as proof of identification under IC 3-5-2-40.5.**

21 (c) This subsection applies to an absentee ballot cast by a voter
 22 permitted to transmit the voter's absentee ballots by fax or electronic
 23 mail under IC 3-11-4-6. The board shall compare the signature as it
 24 appears on the affidavit transmitted with the voter's absentee ballot to
 25 the voter's signature as it appears on the application for the absentee
 26 ballot. The board may also compare the signature on the affidavit with
 27 any other admittedly genuine signature of the voter.

28 (d) If a member of the absentee voter board questions whether:

- 29 **(1) a signature on a ballot envelope or transmitted affidavit is**
- 30 **genuine; or**
- 31 **(2) the voter's proof of identification qualifies as proof of**
- 32 **identification under IC 3-5-2-40.5;**

33 the matter shall be referred to the county election board for
 34 consideration under section 5 of this chapter.

35 SECTION 9. IC 3-11-10-5 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. **(a)** If a county
 37 election board unanimously finds that the signature on a ballot
 38 envelope or transmitted affidavit is not genuine, the board shall write
 39 upon the ballot envelope or transmitted affidavit the words "The county
 40 election board has questioned the genuineness of the signature of this
 41 voter.". These ballots shall be delivered to the polls on election day
 42 under section 12 of this chapter with instructions to verify the voter's

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signature under section 15 of this chapter.

(b) If a county election board unanimously finds that the voter's proof of identification does not qualify as proof of identification under IC 3-5-2-40.5, the board shall write upon the ballot envelope the words "The county election board has found that the voter's proof of identification does not qualify as proof of identification under IC 3-5-2-40.5." The voter's ballot shall be delivered to the polls on election day under section 12 of this chapter with instructions to treat the voter's ballot as a provisional ballot.

SECTION 10. IC 3-11-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. **(a)** If a county election board is unable to unanimously determine whether the signature on a ballot envelope is genuine, the board shall write upon the ballot envelope or transmitted affidavit the words "Signature Disputed". The board then shall deliver all disputed ballot envelopes, together with any evidence of a documentary nature presented before the board, to the proper precinct at the same time that undisputed ballots are delivered.

(b) If a county election board is unable to determine unanimously whether a voter's proof of identification qualifies as proof of identification under IC 3-5-2-40.5, the board shall write on the ballot envelope the words "Proof of identification uncertain." The board shall deliver all such ballot envelopes to the proper precinct with instructions to treat the ballots as provisional ballots.

SECTION 11. IC 3-11-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. **(a)** After receipt of disputed ballots under section 6 **(a)** of this chapter, a precinct election board shall determine whether each disputed ballot will be voted or rejected.

(b) A precinct election board shall treat all ballots received under section 6(b) of this chapter as provisional ballots.

SECTION 12. IC 3-11-10-22, AS AMENDED BY P.L.109-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 22. (a) If an absentee ballot is challenged under section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person.

(b) Except as provided in subsection (c); The challenge procedure under this section is the same as though the ballot was cast by the voter in person.

(c) This subsection does not apply to an absent uniformed services voter, an overseas voter, or an address confidentiality

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1 **program participant.** An absentee voter is ~~not required to~~ **must**
2 provide **a copy of the voter's** proof of identification. **The absentee**
3 **voter shall put a copy of the voter's proof of identification in the**
4 **mailing envelope described in IC 3-11-4-20(1), but not in the ballot**
5 **envelope described in IC 3-11-4-20(3). The voter shall then seal the**
6 **mailing envelope.**

7 (d) If:

- 8 (1) a proper affidavit is made that would entitle the absentee voter
- 9 to vote if the absentee voter had personally appeared; **and**
- 10 (2) **the voter's proof of identification qualifies as proof of**
- 11 **identification under IC 3-5-2-40.5;**

12 then the absentee ballot shall be placed in the ballot box.

13 (e) If:

- 14 (1) **the voter has not included a copy of the voter's proof of**
- 15 **identification as required by subsection (c); or**
- 16 (2) **a member of the precinct election board determines that**
- 17 **the voter's proof of identification does not qualify as proof of**
- 18 **identification under IC 3-5-2-40.5;**

19 **the voter's absentee ballot shall be treated as a provisional ballot.**

20 SECTION 13. IC 3-11-10-24, AS AMENDED BY P.L.225-2011,
21 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2013]: Sec. 24. (a) Except as provided in subsection (b), a
23 voter who satisfies any of the following is entitled to vote by mail:

- 24 (1) The voter has a specific, reasonable expectation of being
- 25 absent from the county on election day during the entire twelve
- 26 (12) hours that the polls are open.
- 27 (2) The voter will be absent from the precinct of the voter's
- 28 residence on election day because of service as:
 - 29 (A) a precinct election officer under IC 3-6-6;
 - 30 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - 31 (C) a challenger or pollbook holder under IC 3-6-7; or
 - 32 (D) a person employed by an election board to administer the
 - 33 election for which the absentee ballot is requested.
- 34 (3) The voter will be confined on election day to the voter's
- 35 residence, to a health care facility, or to a hospital because of an
- 36 illness or injury during the entire twelve (12) hours that the polls
- 37 are open.
- 38 (4) The voter is a voter with disabilities.
- 39 (5) The voter is an elderly voter.
- 40 (6) The voter is prevented from voting due to the voter's care of
- 41 an individual confined to a private residence because of illness or
- 42 injury during the entire twelve (12) hours that the polls are open.

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- 1 (7) The voter is scheduled to work at the person's regular place of
- 2 employment during the entire twelve (12) hours that the polls are
- 3 open.
- 4 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 5 (9) The voter is prevented from voting due to observance of a
- 6 religious discipline or religious holiday during the entire twelve
- 7 (12) hours that the polls are open.
- 8 (10) The voter is an address confidentiality program participant
- 9 (as defined in IC 5-26.5-1-6).
- 10 (11) The voter is a member of the military or public safety officer.
- 11 (b) A voter with disabilities who:
- 12 (1) is unable to make a voting mark on the ballot or sign the
- 13 absentee ballot secrecy envelope; and
- 14 (2) requests that the absentee ballot be delivered to an address
- 15 within Indiana;
- 16 must vote before an absentee voter board under section 25(b) of this
- 17 chapter.
- 18 (c) If a voter receives an absentee ballot by mail, the voter shall
- 19 personally mark the ballot in secret and seal the marked ballot inside
- 20 the **ballot** envelope provided by the county election board for that
- 21 purpose. **The voter shall place a copy of the voter's proof of**
- 22 **identification in the mailing envelope but not in the ballot envelope.**
- 23 The voter shall **then do the following:**
- 24 **(1) Seal the mailing envelope.**
- 25 **(2) Do either of the following:**
- 26 ~~(1)~~ **(A)** Deposit the sealed **mailing** envelope in the United
- 27 States mail for delivery to the county election board. ~~or~~
- 28 ~~(2)~~ **(B)** Authorize a member of the voter's household or the
- 29 individual designated as the voter's attorney in fact to:
- 30 ~~(A)~~ **(i)** deposit the sealed **mailing** envelope in the United
- 31 States mail; or
- 32 ~~(B)~~ **(ii)** deliver the sealed **mailing** envelope in person to the
- 33 county election board.
- 34 (d) If a member of the voter's household or the voter's attorney in
- 35 fact delivers the sealed **mailing** envelope containing a voter's absentee
- 36 ballot to the county election board, the individual delivering the ballot
- 37 shall complete an affidavit in a form prescribed by the commission.
- 38 The affidavit must contain the following information:
- 39 (1) The name and residence address of the voter whose absentee
- 40 ballot is being delivered.
- 41 (2) A statement of the full name, residence and mailing address,
- 42 and daytime and evening telephone numbers (if any) of the

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- individual delivering the absentee ballot.
- (3) A statement indicating whether the individual delivering the absentee ballot is a member of the voter's household or is the attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed with the county election board.
- (4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.
- (5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.
- (6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.
- (7) A statement setting forth the penalties for perjury.
- (e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.
- (f) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in section 1.5 of this chapter.

SECTION 14. IC 3-11.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) If a county election board finds that the signature on a ballot envelope or transmitted affidavit is not genuine, the board shall write upon the ballot envelope the words "The county election board has rejected this ballot because the signature of this voter is not genuine."

(b) If a county election board unanimously finds that the voter's proof of identification does not qualify as proof of identification under IC 3-5-2-40.5, the board shall write upon the ballot envelope the words "The county election board has found that the voter's proof of identification does not qualify as proof of identification under IC 3-5-2-40.5". The voter's ballot shall then be treated as a provisional ballot.

SECTION 15. IC 3-11.5-4-12, AS AMENDED BY P.L.225-2011, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) If the absentee ballot counters find under section 11 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter's proof of identification qualifies as proof of identification under IC 3-5-2-40.5;**

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1 ~~(4)~~ **(5)** the absentee voter is registered and is not required to file
 2 additional information with the county voter registration office
 3 under IC 3-7-33-4.5; and
 4 ~~(5)~~ **(6)** in case of a primary election, if the absentee voter has not
 5 previously voted, the absentee voter has executed the proper
 6 declaration relative to age and qualifications and the political
 7 party with which the absentee voter intends to affiliate;
 8 the absentee ballot counters shall open the envelope containing the
 9 absentee ballots so as not to deface or destroy the affidavit and take out
 10 each ballot enclosed without unfolding or permitting a ballot to be
 11 unfolded or examined.

12 (b) If the absentee ballot counters find under subsection (a) that:
 13 **(1)** the voter has not filed the additional information required to
 14 be filed with the county voter registration office under
 15 IC 3-7-33-4.5; **or**
 16 **(2) the voter's proof of identification does not qualify as proof**
 17 **of identification under IC 3-5-2-40.5;**

18 but that all of the other findings listed under subsection (a) apply, the
 19 absentee ballot shall be processed as a provisional ballot under
 20 IC 3-11.7.

21 (c) The absentee ballot counters shall then deposit the ballots in a
 22 secure envelope with the name of the precinct set forth on the outside
 23 of the envelope. After the absentee ballot counters or the county
 24 election board has made the findings described in subsection (a) or
 25 section 13 of this chapter for all absentee ballots of the precinct, the
 26 absentee ballot counters shall remove all the ballots deposited in the
 27 envelope under this section for counting under IC 3-11.5-5 or
 28 IC 3-11.5-6.

29 SECTION 16. IC 3-11.5-4-16, AS AMENDED BY P.L.164-2006,
 30 SECTION 120, IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) If an absentee ballot is
 32 challenged under section 15 of this chapter, the absentee voter's
 33 application for an absentee ballot shall be considered as the affidavit
 34 required to be made by a voter when challenged at the polls while
 35 voting in person.

36 ~~(b) Except as provided in subsection (c),~~ The challenge procedure
 37 under this section is the same as though the ballot was cast by the voter
 38 in person.

39 ~~(c) An absentee voter is not required to provide proof of~~
 40 ~~identification.~~

41 ~~(d)~~ **(c)** If a proper affidavit by a qualified person in the form
 42 required by IC 3-11-8-22.1 is made that would entitle the absentee

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1 voter to vote if the absentee voter had personally appeared, the couriers
2 shall return the affidavit to the county election board in the same
3 envelope as the certificate returned under section 9 of this chapter.

4 ~~(c)~~ (d) The absentee ballot cast by the challenged voter shall be
5 counted if the county election board makes the findings required under
6 section 11 of this chapter.

7 SECTION 17. IC 3-11.5-5-26, AS AMENDED BY P.L.2-2007,
8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2013]: Sec. 26. (a) A county election board may contract with
10 a state educational institution to dispose of the ballots. The contract
11 must provide that:

- 12 (1) the ballots will be used by the state educational institution to
- 13 conduct election research; and
- 14 (2) the state educational institution may not receive any ballots
- 15 under this subsection until the period for retention under
- 16 IC 3-10-1-31 or IC 3-10-1-31.1 has expired.

17 **(b) A state educational institution may not receive copies of**
18 **voters' proofs of identification. A copy of a voter's proof of**
19 **identification shall be destroyed as provided in IC 3-10-1-31.1.**

20 SECTION 18. IC 3-11.5-6-29, AS AMENDED BY P.L.2-2007,
21 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2013]: Sec. 29. (a) A county election board may contract with
23 a state educational institution to dispose of the ballots. The contract
24 must provide that:

- 25 (1) the ballots will be used by the state educational institution to
- 26 conduct election research; and
- 27 (2) the state educational institution may not receive any ballots
- 28 under this subsection until the period for retention under
- 29 IC 3-10-1-31 or IC 3-10-1-31.1 has expired.

30 **(b) A state educational institution may not receive copies of**
31 **voters' proofs of identification. A copy of a voter's proof of**
32 **identification shall be destroyed as provided in IC 3-10-1-31.1.**

33 SECTION 19. IC 3-11.7-5-2, AS AMENDED BY P.L.103-2005,
34 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2013]: Sec. 2. (a) Except as provided in section 5 of this
36 chapter, if the county election board determines that all the following
37 apply, a provisional ballot is valid and shall be counted under this
38 chapter:

- 39 (1) The affidavit executed by the provisional voter under
- 40 IC 3-11.7-2-1 is properly executed.
- 41 (2) The provisional voter is a qualified voter of the precinct and
- 42 has provided proof of identification, if required, under IC 3-10-1,

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1 IC 3-11-8, or ~~IC 3-11-10-26~~. **IC 3-11-10.**
2 (3) Based on all the information available to the county election
3 board, including:
4 (A) information provided by the provisional voter;
5 (B) information contained in the county's voter registration
6 records; and
7 (C) information contained in the statewide voter registration
8 file;
9 the provisional voter registered to vote at a registration agency
10 under this article on a date within the registration period.
11 (b) If the provisional voter has provided information regarding the
12 registration agency where the provisional voter registered to vote, the
13 board shall promptly make an inquiry to the agency regarding the
14 alleged registration. The agency shall respond to the board not later
15 than noon of the first Friday after the election, indicating whether the
16 agency's records contain any information regarding the registration. If
17 the agency does not respond to the board's inquiry, or if the agency
18 responds that the agency has no record of the alleged registration, the
19 board shall reject the provisional ballot. The board shall endorse the
20 ballot with the word "Rejected" and document on the ballot the inquiry
21 and response, if any, by the agency.
22 (c) Except as provided in section 5 of this chapter, a provisional
23 ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be
24 counted if the county election board determines under this article that
25 the voter filed the documentation required under IC 3-7-33-4.5 and 42
26 U.S.C. 15483 with the county voter registration office not later than the
27 closing of the polls on election day.
28 SECTION 20. IC 3-11.7-5-2.5, AS AMENDED BY P.L.225-2011,
29 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2013]: Sec. 2.5. (a) A voter who:
31 (1) was challenged under IC 3-10-1, IC 3-11-8, or ~~IC 3-11-10-26~~
32 **IC 3-11-10** as a result of the voter's inability or declination to
33 provide proof of identification; and
34 (2) cast a provisional ballot **or whose absentee ballot is required**
35 **to be treated as a provisional ballot;**
36 may personally appear before the circuit court clerk or the county
37 election board not later than noon ten (10) days following the election.
38 (b) Except as provided in subsection (c) or (e), if the voter:
39 (1) provides proof of identification to the circuit court clerk or
40 county election board; and
41 (2) executes an affidavit before the clerk or board, in the form
42 prescribed by the commission, affirming under the penalties of

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1 perjury that the voter is the same individual who:

- 2 (A) personally appeared before the precinct election board and
 3 ~~(B)~~ cast the provisional ballot on election day; **or**
 4 **(B) cast the absentee ballot being treated as a provisional**
 5 **ballot;**

6 the county election board shall find that the voter's provisional ballot
 7 is valid and direct that the provisional ballot be opened under section
 8 4 of this chapter and processed in accordance with this chapter.

9 (c) If the voter executes an affidavit before the circuit court clerk or
 10 county election board, in the form prescribed by the commission,
 11 affirming under the penalties of perjury that:

12 (1) the voter is the same individual who:

- 13 (A) personally appeared before the precinct election board and
 14 ~~(B)~~ cast the provisional ballot on election day; **or**
 15 **(B) cast the absentee ballot being treated as a provisional**
 16 **ballot;** and

17 (2) the voter:

18 (A) is:

- 19 (i) indigent; and
 20 (ii) unable to obtain proof of identification without the
 21 payment of a fee; or

22 (B) has a religious objection to being photographed;

23 the county election board shall determine whether the voter has been
 24 challenged for any reason other than the voter's inability or declination
 25 to present proof of identification to the precinct election board.

26 (d) If the county election board determines that the voter described
 27 in subsection (c) has been challenged solely for the inability or
 28 declination of the voter to provide proof of identification, the county
 29 election board shall:

30 (1) find that the voter's provisional ballot is valid; and

31 (2) direct that the provisional ballot be:

32 (A) opened under section 4 of this chapter; and

33 (B) processed in accordance with this chapter.

34 (e) If the county election board determines that a voter described in
 35 subsection (b) or (c) has been challenged for a cause other than the
 36 voter's inability or declination to provide proof of identification, the
 37 board shall:

38 (1) note on the envelope containing the provisional ballot that the
 39 voter has complied with the proof of identification requirement;
 40 and

41 (2) proceed to determine the validity of the remaining challenges
 42 set forth in the challenge affidavit before ruling on the validity of

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1 the voter's provisional ballot.
 2 (f) If a voter described by subsection (a) fails by the deadline for
 3 counting provisional ballots referenced in subsection (a) to:
 4 (1) appear before the county election board; and
 5 (2) execute an affidavit in the manner prescribed by subsection
 6 (b) or (c);
 7 the county election board shall find that the voter's provisional ballot
 8 is invalid.

9 SECTION 21. IC 3-11.7-5-3, AS AMENDED BY P.L.103-2005,
 10 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2013]: Sec. 3. (a) If the board determines that the affidavit
 12 executed by the provisional voter has not been properly executed, that
 13 the provisional voter is not a qualified voter of the precinct, that the
 14 voter failed to provide proof of identification when required under
 15 IC 3-10-1, IC 3-11-8, or ~~IC 3-11-10-26~~, **IC 3-11-10**, or that the
 16 provisional voter did not register to vote at a registration agency under
 17 this article on a date within the registration period, the board shall
 18 make the following findings:

- 19 (1) The provisional ballot is invalid.
- 20 (2) The provisional ballot may not be counted.
- 21 (3) The provisional ballot envelope containing the ballots cast by
 22 the provisional voter may not be opened.
- 23 (b) If the county election board determines that a provisional ballot
 24 is invalid, a notation shall be made on the provisional ballot envelope:
 25 "Provisional ballot determined invalid."

26 SECTION 22. IC 3-11.7-5-27, AS AMENDED BY P.L.2-2007,
 27 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2013]: Sec. 27. **(a)** A county election board may contract with
 29 a state educational institution to dispose of the ballots. The contract
 30 must provide that:

- 31 (1) the ballots will be used by the state educational institution to
 32 conduct election research; and
- 33 (2) the state educational institution may not receive any ballots
 34 under this section until the period for retention under
 35 IC 3-10-1-31 or IC 3-10-1-31.1 has expired.

36 **(b) A state educational institution may not receive copies of**
 37 **voters' proofs of identification. A copy of a voter's proof of**
 38 **identification shall be destroyed as provided in IC 3-10-1-31.1.**

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