

IC 3-11.5-4

Chapter 4. General Procedures for Counties

IC 3-11.5-4-1

Circuit court clerk records and certification

Sec. 1. Each circuit court clerk shall do the following:

- (1) Keep a separate absentee ballot record for each precinct in the county.
- (2) Certify to each inspector or the inspector's representative, at the time that the ballots and supplies are delivered under IC 3-11-3, the names of the voters:
 - (A) to whom absentee ballots were sent or who marked ballots in person; and
 - (B) whose ballots have been received by the county election board under IC 3-11-10.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.126-2002, SEC.78.

IC 3-11.5-4-2

Recast of certain ballots

Sec. 2. (a) This section applies to a voter voting by an absentee ballot that is defective and ordered corrected under IC 3-11-2-16 or includes a candidate for election to office who:

- (1) ceases to be a candidate; and
- (2) is succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2.

(b) Through the last day before the election day, an absentee voter may recast the ballot during the period specified by IC 3-11-10-26. To obtain another set of ballots, the absentee voter must present a written request for another set of ballots from the circuit court clerk.

(c) Upon receiving a written request under subsection (b), the circuit court clerk shall do the following:

- (1) Place the written request with the absentee voter's original ballots.
- (2) Mark "canceled" on the original set of ballots.
- (3) Preserve the original ballots with other defective ballots.
- (4) Deliver a new set of ballots to the absentee voter.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.3-1995, SEC.117.

IC 3-11.5-4-3

Time for receipt of ballots

Sec. 3. A county election board must receive an absentee ballot before noon on election day.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-4-4

Refusal of ballots without genuine signature

Sec. 4. 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."

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.126-2002, SEC.79.

IC 3-11.5-4-5

Treatment of submitted ballot found genuine

Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope or transmitted affidavit is genuine, the board shall enclose immediately the accepted and unopened ballot envelope, together with the voter's application for the absentee ballot, in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only on election day under IC 3-11.5."

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.126-2002, SEC.80.

IC 3-11.5-4-6

Secure keeping of ballots

Sec. 6. Each circuit court clerk shall keep all accepted ballot envelopes securely in the clerk's office until the ballot envelopes are opened by absentee ballot counters in accordance with this chapter.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-4-7

Acceptance of posted absentee ballots

Sec. 7. Not later than noon on election day each circuit court clerk, or an agent of the clerk, shall visit the appropriate post office to accept delivery of absentee envelopes.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-4-8

Certification of voter names; delivery of certificates

Sec. 8. (a) Each county election board shall certify the names of voters:

- (1) to whom absentee ballots were sent or who marked ballots in person; and
- (2) whose ballots have been received by the board under this chapter;

after the certification under section 1 of this chapter and not later than noon on election day.

(b) The county election board shall have:

- (1) the certificates described in subsection (a); and
- (2) the circuit court clerk's certificates for voters who have registered and voted under IC 3-7-36-14;

delivered to the precinct election boards at their respective polls on election day by couriers appointed under section 22 of this chapter.

(c) The certificates shall be delivered not later than 3 p.m. on

election day.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.126-2002, SEC.81.

IC 3-11.5-4-9

Marking of poll list indication of absentee voters; disposition of certificate materials

Sec. 9. (a) Upon delivery of the certificates under section 8 of this chapter to a precinct election board, the inspector shall do the following in the presence of the poll clerks:

- (1) Mark the poll list.
- (2) Attach the certificates of voters who have registered and voted under IC 3-7-36-14 to the poll list.

The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list and attached the certificates under this section in the presence of both poll clerks to indicate that the absentee ballot of the voter has been received by the county election board.

- (b) The inspector shall then deposit:
- (1) the certificate prepared under section 1 of this chapter;
 - (2) the certificate prepared under section 8 of this chapter; and
 - (3) any challenge affidavit executed by a qualified person under section 16 of this chapter;

in an envelope in the presence of both poll clerks.

(c) The inspector shall seal the envelope. The inspector and each poll clerk shall then sign a statement printed on the envelope indicating that the inspector or poll clerk has complied with the requirements of this chapter governing the marking of the poll list and certificates.

(d) The couriers shall immediately return the envelope described in subsection (b) to the county election board. Upon delivering the envelope to the county election board, each courier shall sign a statement printed on the envelope indicating that the courier has not opened or tampered with the envelope since the envelope was delivered to the courier.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.126-2002, SEC.82; P.L.225-2011, SEC.73.

IC 3-11.5-4-10

Late receipt of ballots

Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail (or by fax or electronic mail under IC 3-11-4-6) after noon on election day are considered as arriving too late and may not be counted.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.126-2002, SEC.83; P.L.198-2005, SEC.12.

IC 3-11.5-4-11

Rejected ballots; exceptions to rejection

Sec. 11. At any time after the couriers return the certificate under

section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

- (1) open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) announce the absentee voter's name; and
- (3) compare the signature upon the application with the signature upon the affidavit on the ballot envelope or transmitted affidavit.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.126-2002, SEC.84.

IC 3-11.5-4-12

Acceptance of initially rejected ballot; procedure; treatment of certain ballots as provisional ballots

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 is registered and is not required to file additional information with the county voter registration office under IC 3-7-33-4.5; and
- (5) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

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

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

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

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.209-2003, SEC.169; P.L.221-2005, SEC.97; P.L.225-2011, SEC.74.

IC 3-11.5-4-13

Rejection of absentee ballots

Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

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

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

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

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

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

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

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

(5) The absentee voter has not registered.

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

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

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county

election board shall make the finding.

(f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote. *As added by P.L. 3-1993, SEC. 176 and P.L. 19-1993, SEC. 2. Amended by P.L. 38-1999, SEC. 53; P.L. 126-2002, SEC. 85; P.L. 1-2003, SEC. 6; P.L. 14-2004, SEC. 139; P.L. 198-2005, SEC. 13.*

IC 3-11.5-4-14

Rejected ballots; endorsement; processing and return

Sec. 14. (a) Each ballot rejected for any of the reasons prescribed by section 13 of this chapter shall, without being unfolded to disclose how the ballot is marked, be endorsed with the words: "Rejected (giving the reason or reasons for the rejection)."

(b) All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the absentee ballot counters shall write the words: "Rejected absentee ballots". The absentee ballot counters shall also identify the precinct and the date of the election on the envelope containing the rejected ballots.

(c) The rejected absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election.

As added by P.L. 3-1993, SEC. 176 and P.L. 19-1993, SEC. 2.

IC 3-11.5-4-15

Challenge of absentee ballot at polls; procedure

Sec. 15. (a) The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast.

(b) Before the inspector prepares to mark the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate delivered to the polls under section 1 or section 8 of this chapter, the inspector shall notify the challengers and the pollbook holders that the inspector is about to mark the poll list under this section. The inspector shall provide the challengers and pollbook holders with the name and address of each voter listed in the certificate so that the voter may be challenged under this article.

(c) The challenge under this section must be determined using the procedures for counting a provisional ballot under IC 3-11.7.

As added by P.L. 3-1993, SEC. 176 and P.L. 19-1993, SEC. 2. Amended by P.L. 14-2004, SEC. 140.

IC 3-11.5-4-16

Absentee voter's application as affidavit; challenge procedure

Sec. 16. (a) If an absentee ballot is challenged under section 15 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) An absentee voter is not required to provide proof of identification.

(d) If a proper affidavit by a qualified person in the form required by IC 3-11-8-22.1 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

(e) The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 of this chapter.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.109-2005, SEC.10; P.L.164-2006, SEC.120.

IC 3-11.5-4-17

Absentee ballot of deceased voter

Sec. 17. (a) If proof is given to the absentee ballot counters that an absentee voter marked and forwarded an absentee ballot but died before election day, the ballot of the deceased voter shall be rejected under section 13 of this chapter and retained with the other rejected ballots under section 14 of this chapter.

(b) The casting of an absentee ballot by a deceased voter does not invalidate an election.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-4-18

Unreturned absentee ballot of voter voting in person

Sec. 18. If a voter has not returned an absentee ballot, the voter may vote in person. However, before the voter may vote, the voter must return the ballot to the county election board. The absentee ballot shall be marked "canceled" and preserved with the rejected ballots.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-4-19

Repealed

(Repealed by P.L.225-2011, SEC.93.)

IC 3-11.5-4-20

Absentee voter wishing to vote in person after poll list is marked

Sec. 20. If the inspector has marked the poll list to indicate that the absentee ballot cast by the voter has been received by the county election board, the voter may not vote in person except as provided in section 21 of this chapter.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.

IC 3-11.5-4-21

Voter appearing in person who has cast rejected absentee ballot

Sec. 21. If an envelope containing an absentee ballot has been marked "Rejected" and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person if the voter presents the precinct election board with the certificate issued under section 13(f) of this chapter.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.1-2009, SEC.4.

IC 3-11.5-4-22

County election board appointments for absentee vote processing; eligibility; service by candidate or candidate's relative

Sec. 22. (a) Except as provided in subsection (b), each county election board shall appoint:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

(b) Notwithstanding subsection (a), a county election board may appoint, by a unanimous vote of the board's members, only one (1) absentee ballot courier if the person appointed is a voter of the county.

(c) An otherwise qualified person is eligible to serve on an absentee voter board or as an absentee ballot counter or a courier unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

(d) A person who is a candidate to be voted for at the election or who is related to a candidate in a manner that would result in disqualification under subsection (c) may, notwithstanding subsection (c), serve as a member of an absentee voter board if:

- (1) the candidate is seeking nomination or election to an office in an election district that does not consist of the entire county; and
- (2) the county election board restricts the duties of the person as an absentee voter board member to performing functions that could have no influence on the casting or counting of absentee

ballots within the election district.
As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.38-1999, SEC.54; P.L.176-1999, SEC.92; P.L.14-2000, SEC.6; P.L.14-2004, SEC.141.

IC 3-11.5-4-23

Political party notice of number of appointees; recommendations for appointments

Sec. 23. (a) Not later than noon ten (10) days before absentee voting begins under IC 3-11-10-26, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

to be appointed under section 22 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under IC 3-11-10-26. The county election board shall make the appointments as recommended.

(c) If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county who comply with section 22 of this chapter.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.3-1995, SEC.118; P.L.38-1999, SEC.55; P.L.14-2004, SEC.142.

IC 3-11.5-4-24

Poll list; inspector duties

Sec. 24. (a) In addition to the preparations described in IC 3-11-11-2, IC 3-11-13-27, or IC 3-11-14-16, the inspector shall:

- (1) mark the poll list; and
- (2) attach the certificates of voters who have registered and voted under IC 3-7-36-14 to the poll list;

in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 of this chapter.

(b) The poll clerks shall sign the statement printed on the certificate supplied under section 1 of this chapter indicating that the inspector:

- (1) marked the poll list; and
- (2) attached the certificates described in subsection (a)(2);

under this section in the presence of both poll clerks.

(c) The inspector shall retain custody of the certificate supplied under section 1 of this chapter until the certificate is returned under section 9 of this chapter.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2. Amended by P.L.126-2002, SEC.86; P.L.221-2005, SEC.98.

IC 3-11.5-4-25

Repealed

(Repealed by P.L.126-2002, SEC.93.)

IC 3-11.5-4-26

Repealed

(Repealed by P.L.126-2002, SEC.93.)

IC 3-11.5-4-27

Repealed

(Repealed by P.L.126-2002, SEC.93.)

IC 3-11.5-4-28

Report of vote count; certificate

Sec. 28. When all votes have been counted, the precinct election board shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. The number of votes that each candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum.

As added by P.L.3-1993, SEC.176 and P.L.19-1993, SEC.2.