

# HOUSE BILL No. 1040

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-9.

**Synopsis:** Primary election campaign finance reporting. Increases the maximum civil penalty for a delinquent filing of a preprimary campaign finance report from \$1,000 to \$5,000. Provides that if certain candidates at a primary election: (1) had at least one opponent in the primary election; and (2) spent or received at least \$5,000 after the date of the preprimary campaign finance report and before July 1; the candidate must file a report of receipts and expenditures dated as of the third Wednesday of July after the primary election.

**Effective:** July 1, 2017.

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## Thompson

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January 4, 2017, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1040

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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 3-9-4-16, AS AMENDED BY P.L.225-2011,  
2 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 16. (a) In addition to any other penalty imposed,  
4 a person who does any of the following is subject to a civil penalty  
5 under this section:  
6 (1) Fails to file with the election division a report in the manner  
7 required under IC 3-9-5. **However, this section does not apply**  
8 **to a report required to be filed under IC 3-9-5-6(a)(1). Section**  
9 **16.5 of this chapter applies to such a report.**  
10 (2) Fails to file a statement of organization required under  
11 IC 3-9-1.  
12 (3) Is a committee or a member of a committee who disburses or  
13 expends money or other property for any political purpose before  
14 the money or other property has passed through the hands of the  
15 treasurer of the committee.  
16 (4) Makes a contribution other than to a committee subject to this  
17 article or to a person authorized by law or a committee to receive



- 1 contributions on the committee's behalf.
- 2 (5) Is a corporation or labor organization that exceeds any of the
- 3 limitations on contributions prescribed by IC 3-9-2-4.
- 4 (6) Makes a contribution in the name of another person.
- 5 (7) Accepts a contribution made by one (1) person in the name of
- 6 another person.
- 7 (8) Is not the treasurer of a committee subject to this article, and
- 8 pays any expenses of an election or a caucus except as authorized
- 9 by this article.
- 10 (9) Commingles the funds of a committee with the personal funds
- 11 of an officer, a member, or an associate of the committee.
- 12 (10) Wrongfully uses campaign contributions in violation of
- 13 IC 3-9-3-4.
- 14 (11) Violates IC 3-9-2-12.
- 15 (12) Fails to designate a contribution as required by IC 3-9-2-5(c).
- 16 (13) Violates IC 3-9-3-5.
- 17 (14) Serves as a treasurer of a committee in violation of any of the
- 18 following:
- 19 (A) IC 3-9-1-13(1).
- 20 (B) IC 3-9-1-13(2).
- 21 (C) IC 3-9-1-18.
- 22 (15) Fails to comply with section 4(d) of this chapter.
- 23 (16) Violates IC 3-9-3-2.5 by making a communication that
- 24 contains a disclaimer that is not presented in a clear and
- 25 conspicuous manner required by IC 3-9-3-2.5(d) and
- 26 IC 3-9-3-2.5(e). This subdivision does not apply to a person
- 27 whose sole act is, in the normal course of business, participating
- 28 in the preparation, printing, distribution, or broadcast of the
- 29 communication containing the disclaimer.
- 30 (b) This subsection applies to a person who is subject to a civil
- 31 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
- 32 statement. If the commission determines that a person failed to file the
- 33 amended report or statement of organization not later than noon five (5)
- 34 days after being given notice under section 14 of this chapter, the
- 35 commission may assess a civil penalty. The penalty is ten dollars (\$10)
- 36 for each day the report is late after the expiration of the five (5) day
- 37 period, not to exceed one hundred dollars (\$100) plus any investigative
- 38 costs incurred and documented by the election division. The civil
- 39 penalty limit under this subsection applies to each report separately.
- 40 (c) This subsection applies to a person who is subject to a civil
- 41 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
- 42 statement. If the commission determines that a person failed to file the



1 report or statement of organization by the deadline prescribed under  
2 this article, the commission shall assess a civil penalty. The penalty is  
3 fifty dollars (\$50) for each day the report or statement is late, with the  
4 afternoon of the final date for filing the report or statement being  
5 calculated as the first day. The civil penalty under this subsection may  
6 not exceed one thousand dollars (\$1,000) plus any investigative costs  
7 incurred and documented by the election division. The civil penalty  
8 limit under this subsection applies to each report separately.

9 (d) This subsection applies to a person who is subject to a civil  
10 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or  
11 (a)(10). If the commission determines that a person is subject to a civil  
12 penalty under subsection (a), the commission may assess a civil penalty  
13 of not more than one thousand dollars (\$1,000), plus any investigative  
14 costs incurred and documented by the election division.

15 (e) This subsection applies to a person who is subject to a civil  
16 penalty under subsection (a)(5). If the commission determines that a  
17 person is subject to a civil penalty under subsection (a)(5), the  
18 commission may assess a civil penalty of not more than three (3) times  
19 the amount of the contribution in excess of the limit prescribed by  
20 IC 3-9-2-4, plus any investigative costs incurred and documented by  
21 the election division.

22 (f) This subsection applies to a person who is subject to a civil  
23 penalty under subsection (a)(11). If the commission determines that a  
24 candidate or the candidate's committee has violated IC 3-9-2-12, the  
25 commission shall assess a civil penalty equal to the greater of the  
26 following, plus any investigative costs incurred and documented by the  
27 election division:

- 28 (1) Two (2) times the amount of any contributions received.
- 29 (2) One thousand dollars (\$1,000).

30 (g) This subsection applies to a person who is subject to a civil  
31 penalty under subsection (a)(12). If the commission determines that a  
32 corporation or a labor organization has failed to designate a  
33 contribution in violation of IC 3-9-2-5(c), the commission shall assess  
34 a civil penalty equal to the greater of the following, plus any  
35 investigative costs incurred and documented by the election division:

- 36 (1) Two (2) times the amount of the contributions undesignated.
- 37 (2) One thousand dollars (\$1,000).

38 (h) This subsection applies to a person who is subject to a civil  
39 penalty under subsection (a)(13). If the commission determines, by  
40 unanimous vote of the entire membership of the commission, that a  
41 person has violated IC 3-9-3-5, the commission may assess a civil  
42 penalty of not more than five hundred dollars (\$500), plus any



1 investigative costs incurred and documented by the election division.

2 (i) This subsection applies to a person who is subject to a civil  
3 penalty under subsection (a)(14). If the commission determines, by  
4 unanimous vote of the entire membership of the commission, that a  
5 person has served as the treasurer of a committee in violation of any of  
6 the statutes listed in subsection (a)(14), the commission may assess a  
7 civil penalty of not more than five hundred dollars (\$500), plus any  
8 investigative costs incurred and documented by the election division.

9 (j) This subsection applies to a person who is subject to a civil  
10 penalty under subsection (a)(15). The commission may assess a civil  
11 penalty equal to the costs incurred by the election division for the  
12 manual entry of the data contained in the report or statement, plus any  
13 investigative costs incurred and documented by the election division.

14 (k) This subsection applies to a person who is subject to a civil  
15 penalty under subsection (a)(16). If the commission determines that a  
16 person is subject to a civil penalty under subsection (a)(16), the  
17 commission may assess a civil penalty of not more than one thousand  
18 dollars (\$1,000) for each communication circulated or published (but  
19 not for each of the copies of the communication actually circulated or  
20 published), plus any investigative costs incurred and documented by  
21 the election division.

22 (l) All civil penalties collected under this section shall be deposited  
23 with the treasurer of state in the campaign finance enforcement  
24 account.

25 (m) Proceedings of the commission under this section are subject to  
26 IC 4-21.5.

27 SECTION 2. IC 3-9-4-16.5 IS ADDED TO THE INDIANA CODE  
28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
29 1, 2017]: **Sec. 16.5. (a) This section applies only to a report required  
30 to be filed with the election division under IC 3-9-5-6(a)(1).**

31 **(b) If the commission determines that a person has done either  
32 of the following, the person is subject to a civil penalty under this  
33 section in addition to any other penalty imposed:**

34 **(1) The person has failed to file the amended report not later  
35 than noon five (5) days after being given notice under section  
36 14 of this chapter that the person has filed a defective report  
37 under IC 3-9-5-6(a)(1).**

38 **(2) The person is delinquent in filing a report under  
39 IC 3-9-5-6(a)(1).**

40 **(c) If the commission determines that a person failed to file the  
41 report by the deadline prescribed under this article, the  
42 commission shall assess the following civil penalty, subject to**



1 subsection (d):

2 (1) For each of the first four (4) days that the report or  
3 amended report is late after the day it is due, fifty dollars  
4 (\$50).

5 (2) For each of the next three (3) days after the days described  
6 in subdivision (1) that the report or amended report is late  
7 after the day it is due, one hundred dollars (\$100).

8 (3) For each of the next four (4) days after the days described  
9 in subdivisions (1) and (2) that the report or amended report  
10 is late after the day it is due, two hundred fifty dollars (\$250).

11 (4) For each of the next seven (7) days after the days described  
12 in subdivisions (1) through (3) that the report or amended  
13 report is late after the day it is due, five hundred dollars  
14 (\$500).

15 (d) The civil penalty under this section may not exceed five  
16 thousand dollars (\$5,000) plus any investigative costs incurred and  
17 documented by the election division. The civil penalty limit under  
18 this subsection applies to each report separately.

19 (e) All civil penalties collected under this section shall be  
20 deposited with the treasurer of state in the campaign finance  
21 enforcement account.

22 (f) Proceedings of the commission under this section are subject  
23 to IC 4-21.5.

24 SECTION 3. IC 3-9-4-17, AS AMENDED BY P.L.169-2015,  
25 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2017]: Sec. 17. (a) In addition to any other penalty imposed,  
27 a person who does any of the following is subject to a civil penalty  
28 under this section:

29 (1) Fails to file with a county election board a report in the  
30 manner required under IC 3-9-5. **However, this section does not**  
31 **apply to a report required to be filed under IC 3-9-5-6(a)(1).**  
32 **Section 17.5 of this chapter applies to such a report.**

33 (2) Fails to file a statement of organization required under  
34 IC 3-9-1.

35 (3) Is a committee or a member of a committee who disburses or  
36 expends money or other property for any political purpose before  
37 the money or other property has passed through the hands of the  
38 treasurer of the committee.

39 (4) Makes a contribution other than to a committee subject to this  
40 article or to a person authorized by law or a committee to receive  
41 contributions in the committee's behalf.

42 (5) Is a corporation or labor organization that exceeds any of the



- 1 limitations on contributions prescribed by IC 3-9-2-4.  
 2 (6) Makes a contribution in the name of another person.  
 3 (7) Accepts a contribution made by one (1) person in the name of  
 4 another person.  
 5 (8) Is not the treasurer of a committee subject to this article, and  
 6 pays any expenses of an election or a caucus except as authorized  
 7 by this article.  
 8 (9) Commingles the funds of a committee with the personal funds  
 9 of an officer, a member, or an associate of the committee.  
 10 (10) Wrongfully uses campaign contributions in violation of  
 11 IC 3-9-3-4.  
 12 (11) Fails to designate a contribution as required by IC 3-9-2-5(c).  
 13 (12) Violates IC 3-9-3-5.  
 14 (13) Serves as a treasurer of a committee in violation of any of the  
 15 following:  
 16 (A) IC 3-9-1-13(1).  
 17 (B) IC 3-9-1-13(2).  
 18 (C) IC 3-9-1-18.  
 19 (14) Violates IC 3-9-3-2.5 by making a communication that  
 20 contains a disclaimer that is not presented in a clear and  
 21 conspicuous manner, as required by IC 3-9-3-2.5(d) and  
 22 IC 3-9-3-2.5(e). This subdivision does not apply to a person  
 23 whose sole act is, in the normal course of business, participating  
 24 in the preparation, printing, distribution, or broadcast of the  
 25 communication containing the disclaimer.  
 26 (b) This subsection applies to a person who is subject to a civil  
 27 penalty under subsection (a)(1) or (a)(2) for filing a defective report or  
 28 statement. If the county election board determines that a person failed  
 29 to file the report or a statement of organization not later than noon five  
 30 (5) days after being given notice under section 14 of this chapter, the  
 31 county election board may assess a civil penalty. The penalty is ten  
 32 dollars (\$10) for each day the report is late after the expiration of the  
 33 five (5) day period, not to exceed one hundred dollars (\$100) plus any  
 34 investigative costs incurred and documented by the board. The civil  
 35 penalty limit under this subsection applies to each report separately.  
 36 (c) This subsection applies to a person who is subject to a civil  
 37 penalty under subsection (a)(1) or (a)(2) for a delinquent report or  
 38 statement. If the county election board determines that a person failed  
 39 to file the report or statement of organization by the deadline prescribed  
 40 under this article, the board shall assess a civil penalty. The penalty is  
 41 fifty dollars (\$50) for each day the report is late, with the afternoon of  
 42 the final date for filing the report or statement being calculated as the



1 first day. The civil penalty under this subsection may not exceed one  
2 thousand dollars (\$1,000) plus any investigative costs incurred and  
3 documented by the board. The civil penalty limit under this subsection  
4 applies to each report separately.

5 (d) This subsection applies to a person who is subject to a civil  
6 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or  
7 (a)(10). If the county election board determines that a person is subject  
8 to a civil penalty under subsection (a), the board may assess a civil  
9 penalty of not more than one thousand dollars (\$1,000), plus any  
10 investigative costs incurred and documented by the board.

11 (e) This subsection applies to a person who is subject to a civil  
12 penalty under subsection (a)(5). If the county election board determines  
13 that a person is subject to a civil penalty under subsection (a)(5), the  
14 board may assess a civil penalty of not more than three (3) times the  
15 amount of the contribution in excess of the limit prescribed by  
16 IC 3-9-2-4, plus any investigative costs incurred and documented by  
17 the board.

18 (f) This subsection applies to a person who is subject to a civil  
19 penalty under subsection (a)(11). If the county election board  
20 determines that a corporation or a labor organization has failed to  
21 designate a contribution in violation of IC 3-9-2-5(c), the board shall  
22 assess a civil penalty equal to the greater of the following, plus any  
23 investigative costs incurred and documented by the board:

- 24 (1) Two (2) times the amount of the contributions undesignated.
- 25 (2) One thousand dollars (\$1,000).

26 (g) This subsection applies to a person who is subject to a civil  
27 penalty under subsection (a)(12). If the county election board  
28 determines, by unanimous vote of the entire membership of the board,  
29 that a person has violated IC 3-9-3-5, the board may assess a civil  
30 penalty of not more than five hundred dollars (\$500), plus any  
31 investigative costs incurred and documented by the board.

32 (h) This subsection applies to a person who is subject to a civil  
33 penalty under subsection (a)(13). If the county election board  
34 determines, by unanimous vote of the entire membership of the board,  
35 that a person has served as the treasurer of a committee in violation of  
36 any of the statutes listed in subsection (a)(13), the board may assess a  
37 civil penalty of not more than five hundred dollars (\$500), plus any  
38 investigative costs incurred and documented by the board.

39 (i) This subsection applies to a person who is subject to a civil  
40 penalty under subsection (a)(14). If the board determines that a person  
41 is subject to a civil penalty under subsection (a)(14), the board may  
42 assess a civil penalty of not more than one thousand dollars (\$1,000)





1 for each communication circulated or published (but not for each of the  
2 copies of the communication actually circulated or published), plus any  
3 investigative costs incurred and documented by the election division.

4 (j) All civil penalties collected under this section shall be deposited  
5 with the county treasurer to be deposited by the county treasurer in a  
6 separate account. The funds in the account are available, with the  
7 approval of the county fiscal body, to augment and supplement the  
8 funds appropriated for the administration of this title in the county.

9 (k) Money in the account established under subsection (j) does not  
10 revert to the county general fund at the end of a county fiscal year.

11 (l) Proceedings of the county election board under this section are  
12 subject to IC 4-21.5.

13 SECTION 4. IC 3-9-4-17.5 IS ADDED TO THE INDIANA CODE  
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
15 1, 2017]: **Sec. 17.5. (a) This section applies only to a report required  
16 to be filed with a county election board under IC 3-9-5-6(a)(1).**

17 (b) **If the county election board determines that a person has  
18 done either of the following, the person is subject to a civil penalty  
19 under this section in addition to any other penalty imposed:**

20 (1) **The person has failed to file the amended report not later  
21 than noon five (5) days after being given notice under section  
22 14 of this chapter that the person has filed a defective report  
23 under IC 3-9-5-6(a)(1).**

24 (2) **The person is delinquent in filing a report under  
25 IC 3-9-5-6(a)(1).**

26 (c) **If the county election board determines that a person failed  
27 to file the report by the deadline prescribed under this article, the  
28 commission shall assess the following civil penalty, subject to  
29 subsection (d):**

30 (1) **For each of the first four (4) days that the report or  
31 amended report is late after the day it is due, fifty dollars  
32 (\$50).**

33 (2) **For each of the next three (3) days after the days described  
34 in subdivision (1) that the report or amended report is late  
35 after the day it is due, one hundred dollars (\$100).**

36 (3) **For each of the next four (4) days after the days described  
37 in subdivisions (1) and (2) that the report or amended report  
38 is late after the day it is due, two hundred fifty dollars (\$250).**

39 (4) **For each of the next seven (7) days after the days described  
40 in subdivisions (1) through (3) that the report or amended  
41 report is late after the day it is due, five hundred dollars  
42 (\$500).**



1           (d) The civil penalty under this section may not exceed five  
2 thousand dollars (\$5,000) plus any investigative costs incurred and  
3 documented by the county election board. The civil penalty limit  
4 under this subsection applies to each report separately.

5           (e) All civil penalties collected under this section shall be  
6 deposited with the county treasurer to be deposited by the county  
7 treasurer in a separate account. The funds in the account are  
8 available, with the approval of the county fiscal body, to augment  
9 and supplement the funds appropriated for the administration of  
10 this title in the county.

11           (f) Money in the account described in subsection (e) does not  
12 revert to the county general fund at the end of a county fiscal year.

13           (g) Proceedings of the county election board under this section  
14 are subject to IC 4-21.5.

15           SECTION 5. IC 3-9-5-6, AS AMENDED BY P.L.164-2006,  
16 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2017]: Sec. 6. (a) This subsection applies to a candidate's  
18 committee other than a candidate's committee of a candidate for a state  
19 office. Except as otherwise provided in this chapter, each committee,  
20 the committee's treasurer, and each candidate shall complete a report  
21 required by this chapter current and dated as of the following dates:

22           (1) Twenty-five (25) days before the nomination date.

23           **(2) This subdivision applies only if both of the following apply:**

24           **(A) A candidate at a primary election had at least one (1)**  
25 **opponent in the primary election.**

26           **(B) The candidate's committee spent or received at least**  
27 **five thousand dollars (\$5,000):**

28           **(i) after the date of the report required to be filed under**  
29 **subdivision (1); and**

30           **(ii) before July 1;**

31           **of the year of the primary election.**

32           **The candidate's committee shall file an additional report**  
33 **required by this chapter, covering the period described in**  
34 **clause (B). The report must be filed not later than the third**  
35 **Wednesday in July after the primary election.**

36           ~~(2) (3)~~ Twenty-five (25) days before the general, municipal, or  
37 special election.

38           ~~(3) (4)~~ The annual report filed and dated as required by section 10  
39 of this chapter.

40           (b) This subsection applies to a regular party committee. Except as  
41 otherwise provided in this chapter, each committee and the committee's  
42 treasurer shall complete a report required by this chapter current and



- 1       dated as of the following dates:
- 2           (1) Twenty-five (25) days before a primary election.
- 3           (2) Twenty-five (25) days before a general, municipal, or special
- 4           election.
- 5           (3) The date of the annual report filed and dated as required under
- 6           section 10 of this chapter.
- 7       (c) This subsection applies to a legislative caucus committee.
- 8       Except as otherwise provided in this chapter, each committee and the
- 9       committee's treasurer shall complete a report required under this
- 10       chapter current and dated as of the following dates:
- 11           (1) Twenty-five (25) days before a primary election conducted in
- 12           an even-numbered year.
- 13           (2) Twenty-five (25) days before a general election conducted in
- 14           an even-numbered year.
- 15           (3) The date of the annual report filed and dated as required under
- 16           section 10 of this chapter.
- 17       A legislative caucus committee is not required to file any report
- 18       concerning the committee's activity during an odd-numbered year other
- 19       than the annual report filed and dated under section 10 of this chapter.
- 20       (d) This subsection applies to a political action committee. Except
- 21       as otherwise provided in this chapter, each committee and the
- 22       committee's treasurer shall complete a report required by this chapter
- 23       current and dated as of the following dates:
- 24           (1) Twenty-five (25) days before a primary election.
- 25           (2) Twenty-five (25) days before a general, municipal, or special
- 26           election.
- 27           (3) The date of the annual report filed and dated as required under
- 28           section 10 of this chapter.
- 29       (e) This subsection applies to a candidate's committee of a candidate
- 30       for a state office. A candidate's committee is not required to file a
- 31       report under section 8.2, 8.4, or 8.5 of this chapter. For a year in which
- 32       an election to the state office is held, the treasurer of a candidate's
- 33       committee shall file the following reports:
- 34           (1) A report covering the period from January 1 through March 31
- 35           of the year of the report. A report required by this subdivision
- 36           must be filed not later than noon April 15 of the year covered by
- 37           the report.
- 38           (2) A report covering the period from April 1 through June 30 of
- 39           the year of the report. A report required by this subdivision must
- 40           be filed not later than noon July 15 of the year covered by the
- 41           report.
- 42           (3) A report covering the period from July 1 through September



- 1 30 of the year of the report. A report required by this subdivision  
2 must be filed not later than noon October 15 of the year covered  
3 by the report.
- 4 (4) A report covering the period from October 1 of the year of the  
5 report through the date that is fifteen (15) days before the date of  
6 the election. A report required by this subdivision must be filed  
7 not later than noon seven (7) days before the date of the election.
- 8 (5) A report covering the period from the date that is fourteen (14)  
9 days before the date of the election through December 31 of the  
10 year of the report. A report required by this subdivision must:
- 11 (A) provide cumulative totals from January 1 through  
12 December 31 of the year of the report; and
- 13 (B) be filed not later than the deadline specified in section 10  
14 of this chapter.

