

SENATE BILL No. 221

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-6; IC 3-7-26.3-23; IC 3-11.

Synopsis: Absentee voting. Permits a voter who is qualified to vote in person to vote by absentee ballot. Removes all other qualifications for a voter to vote by absentee ballot except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.) Makes conforming changes.

Effective: Upon passage.

Mrvan

January 6, 2022, read first time and referred to Committee on Elections.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 221

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 IC 3-6-6-6 IS REPEALED [EFFECTIVE UPON
- 2 PASSAGE]. ~~Sec. 6: Each inspector, judge, poll clerk, assistant poll~~
- 3 ~~clerk, and election sheriff who is:~~
- 4 ~~(1) a voter of the county; and~~
- 5 ~~(2) not a resident of the precinct;~~
- 6 ~~is entitled to vote by absentee ballot.~~
- 7 SECTION 2. IC 3-6-7-3 IS REPEALED [EFFECTIVE UPON
- 8 PASSAGE]. ~~Sec. 3: A challenger or pollbook holder who is not a~~
- 9 ~~resident of the precinct is entitled to vote by absentee ballot.~~
- 10 SECTION 3. IC 3-7-26.3-23, AS AMENDED BY P.L.278-2019,
- 11 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 UPON PASSAGE]: Sec. 23. (a) The computerized list must include
- 13 absentee ballot management features that do the following:
- 14 (1) Manage absentee ballots based on the type ~~eligibility~~, and
- 15 status of the absentee voter.
- 16 (2) Permit the printing of absentee labels by group or date, or by
- 17 individual for use by a voter voting in person at the county



- 1 election board office.
- 2 (3) Permit the documentation of the date on which each absentee
- 3 ballot is issued and returned.
- 4 (4) Permit the printing of absentee ballot applications with voter
- 5 registration information for the absentee ballot applicant.
- 6 (b) The computerized list:
- 7 (1) must require that a report containing information concerning
- 8 absentee applications and voting by specified individuals be
- 9 generated in CSV format with dashes; and
- 10 (2) may provide for reports described in subdivision (1) to be
- 11 generated in other formats.
- 12 SECTION 4. IC 3-11-4-1, AS AMENDED BY P.L.193-2021,
- 13 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 UPON PASSAGE]: Sec. 1. (a) A voter who is otherwise qualified to
- 15 vote in person is entitled to vote by absentee ballot: ~~Except~~
- 16 **(1) by mail;**
- 17 **(2) before an absentee voter board** as otherwise provided in this
- 18 article; ~~a voter voting by absentee ballot must vote~~
- 19 **(3) in the office of the circuit court clerk (or board of elections**
- 20 **and registration in a county subject to IC 3-6-5.2 or IC 3-6-5.6);**
- 21 **or**
- 22 **(4) at a satellite office established under IC 3-11-10-26.3.**
- 23 (b) A county election board, by unanimous vote of its entire
- 24 membership, may authorize a person who is otherwise qualified to vote
- 25 in person to vote by absentee ballot if the board determines that the
- 26 person has been hospitalized or suffered an injury following the final
- 27 date and hour for applying for an absentee ballot that would prevent the
- 28 person from voting in person at the polls.
- 29 (c) A county election board or board of elections and registration,
- 30 by unanimous vote of its entire membership, may authorize an
- 31 individual who is otherwise qualified to vote in person and wishes to
- 32 vote by absentee ballot to file an application for an absentee ballot if
- 33 the board determines that:
- 34 (1) during the last eleven (11) days before the election:
- 35 (A) the governor has declared a disaster emergency under
- 36 IC 10-14-3-12; or
- 37 (B) the county has declared a local disaster emergency under
- 38 IC 10-14-3-29;
- 39 (2) the disaster emergency prevents the individual from voting in
- 40 person at a polling place; and
- 41 (3) an absentee voter board can receive the voter's absentee ballot
- 42 not later than 6 p.m. on election day.



1 (d) The absentee ballots used in subsection (b) or (c) must be the
 2 same official absentee ballots as described in section 15 of this chapter.
 3 Taking into consideration the amount of time remaining before the
 4 election, the commission, the county election board, or the board of
 5 elections and registration shall determine whether the absentee ballots
 6 are transmitted to and from the voter by any of the following:

- 7 (1) Mail.
 8 (2) Personal delivery.

9 An absentee ballot that is personally delivered shall comply with the
 10 requirements in sections 19, 20, and 21 of this chapter.

11 SECTION 5. IC 3-11-4-2, AS AMENDED BY P.L.278-2019,
 12 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee
 14 ballot must apply to the county election board for an official absentee
 15 ballot. Except as provided in subsection (b), the voter must sign the
 16 absentee ballot application.

17 (b) If a voter with disabilities is unable to sign the absentee ballot
 18 application and the voter has not designated an individual to serve as
 19 attorney in fact for the voter, the voter may designate an individual
 20 eligible to assist the voter under IC 3-11-9-2(a) to sign the application
 21 on behalf of the voter and add the individual's name to the application.
 22 If an individual applies for an absentee ballot as the properly
 23 authorized attorney in fact for a voter, the attorney in fact must attach
 24 a copy of the power of attorney to the application and comply with
 25 subsection (d).

26 (c) A person may provide an individual with an application for an
 27 absentee ballot with the following information already printed or
 28 otherwise set forth on the application when provided to the individual:

- 29 (1) The name of the individual.
 30 (2) The voter registration address of the individual.
 31 (3) The mailing address of the individual.
 32 (4) The date of birth of the individual.

33 (d) A person may not provide an individual with an application for
 34 an absentee ballot with the following information already printed or
 35 otherwise set forth on the application when provided to the individual:

- 36 (1) The address to which the absentee ballot would be mailed, if
 37 different from the voter registration address of the individual.
 38 (2) In a primary election, the major political party ballot requested
 39 by the individual.
 40 (3) In a primary or general election, the types of absentee ballots
 41 requested by the individual.
 42 ~~(4) The reason why the individual is entitled to vote an absentee~~



- 1 ballot:
- 2 (A) by mail; or
- 3 (B) before an absentee voter board (other than an absentee
- 4 voter board located in the office of the circuit court clerk or a
- 5 satellite office);
- 6 in accordance with IC 3-11-4-18; IC 3-11-10-24; or
- 7 IC 3-11-10-25.
- 8 (5) (4) The voter identification number of the individual.
- 9 (e) If the county election board determines that an absentee ballot
- 10 application does not comply with subsection (d), the board shall deny
- 11 the application under section 17.5 of this chapter.
- 12 (f) A person who assists an individual in completing any
- 13 information described in subsection (d) on an absentee ballot
- 14 application shall state under the penalties for perjury the following
- 15 information on the application:
- 16 (1) The full name, residence and mailing address, and daytime
- 17 and evening telephone numbers (if any) of the person providing
- 18 the assistance.
- 19 (2) The date this assistance was provided.
- 20 (3) That the person providing the assistance has complied with
- 21 Indiana laws governing the submission of absentee ballot
- 22 applications.
- 23 (4) That the person has no knowledge or reason to believe that the
- 24 individual submitting the application:
- 25 (A) is ineligible to vote or to cast an absentee ballot; or
- 26 (B) did not properly complete and sign the application.
- 27 When providing assistance to an individual, the person must, in the
- 28 individual's presence and with the individual's consent, provide the
- 29 information listed in subsection (d) if the individual is unable to do so.
- 30 (g) This subsection does not apply to an employee of the United
- 31 States Postal Service or a bonded courier company acting in the
- 32 individual's capacity as an employee of the United States Postal Service
- 33 or a bonded courier company. A person who receives a completed
- 34 absentee ballot application from the individual who has applied for the
- 35 absentee ballot shall indicate on the application the date the person
- 36 received the application, and file the application with the appropriate
- 37 county election board or election division not later than:
- 38 (1) noon ten (10) days after the person receives the application;
- 39 or
- 40 (2) the deadline set by Indiana law for filing the application with
- 41 the board;
- 42 whichever occurs first. The election division, a county election board,



1 or a board of elections and registration shall forward an absentee ballot
 2 application to the county election board or board of elections and
 3 registration of the county where the individual resides.

4 (h) This subsection does not apply to an employee of the United
 5 States Postal Service or a bonded courier company acting in the
 6 individual's capacity as an employee of the United States Postal Service
 7 or a bonded courier company, or to the election division, a county
 8 election board, or a board of elections and registration. A person filing
 9 an absentee ballot application, other than the person's own absentee
 10 ballot application, must include an affidavit with the application. The
 11 affidavit must be signed by the individual who received the completed
 12 application from the applicant. The affidavit must be in a form
 13 prescribed by the election division. The form must include the
 14 following:

15 (1) A statement of the full name, residence and mailing address,
 16 and daytime and evening telephone numbers (if any) of the person
 17 submitting the application.

18 (2) A statement that the person filing the affidavit has complied
 19 with Indiana laws governing the submission of absentee ballot
 20 applications.

21 (3) The date (or dates) that the absentee ballot applications
 22 attached to the affidavit were received.

23 (4) A statement that the person has no knowledge or reason to
 24 believe that the individual whose application is to be filed:

25 (A) is ineligible to vote or to cast an absentee ballot; or

26 (B) did not properly complete and sign the application.

27 (5) A statement that the person is executing the affidavit under the
 28 penalties of perjury.

29 (6) A statement setting forth the penalties for perjury.

30 (i) The county election board shall record the date and time of the
 31 filing of the affidavit.

32 SECTION 6. IC 3-11-4-18, AS AMENDED BY P.L.100-2018,
 33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 18. (a) ~~If a voter satisfies any of the~~
 35 ~~qualifications described in IC 3-11-10-24 that entitle a voter to cast an~~
 36 ~~absentee ballot by mail~~; The county election board shall, at the request
 37 of the voter, mail ~~the~~ **an** official ballot, postage fully prepaid, to the
 38 voter at the address stated in the application. Each ballot may be
 39 assigned a unique tracking number as prescribed by the election
 40 division using IMb Tracing or a similar automated tracking method to
 41 provide real-time tracking information for the envelope containing the
 42 ballot. As used in this subsection, "IMb Tracing" refers to a real-time



1 mail tracking service offered through the United States Postal Service.

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

14 (c) Except as provided in this subsection, section 18.5 of this
 15 chapter, or IC 3-11-10-26.5, the ballot shall be transmitted:

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

19 whichever is later. If the election board determines that the county
 20 voter registration office has received an application from the applicant
 21 for registration at an address within the precinct indicated on the
 22 application, and the election board determines that this application is
 23 pending under IC 3-7-33, the ballot shall be mailed on the date the
 24 county voter registration office indicates under IC 3-7-33-5(g) that the
 25 applicant is a registered voter.

26 (d) As required by 52 U.S.C. 21081, an election board shall
 27 establish a voter education program (specific to a paper ballot or
 28 optical scan ballot card provided as an absentee ballot under this
 29 chapter) to notify a voter of the effect of casting multiple votes for a
 30 single office.

31 (e) As provided by 52 U.S.C. 21081, when an absentee ballot is
 32 transmitted under this section, the mailing must include:

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

37 SECTION 7. IC 3-11-10-24, AS AMENDED BY P.L.109-2021,
 38 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 24. (a) Except as provided in subsection ~~(b)~~;
 40 **(d)**, a voter ~~who satisfies any of the following~~ is entitled to vote by
 41 mail.

- 42 ~~(1) The voter has a specific, reasonable expectation of being~~



- 1 absent from the county on election day during the entire twelve
 2 (12) hours that the polls are open.
- 3 (2) The voter will be absent from the precinct of the voter's
 4 residence on election day because of service as:
- 5 (A) a precinct election officer under IC 3-6-6;
 6 (B) a watcher under IC 3-6-8; IC 3-6-9; or IC 3-6-10;
 7 (C) a challenger or pollbook holder under IC 3-6-7; or
 8 (D) a person employed by an election board to administer the
 9 election for which the absentee ballot is requested.
- 10 (3) The voter will be confined on election day to the voter's
 11 residence, to a health care facility, or to a hospital because of an
 12 illness or injury during the entire twelve (12) hours that the polls
 13 are open.
- 14 (4) The voter is a voter with disabilities.
- 15 (5) The voter is an elderly voter.
- 16 (6) The voter is prevented from voting due to the voter's care of
 17 an individual confined to a private residence because of illness or
 18 injury during the entire twelve (12) hours that the polls are open.
- 19 (7) The voter is scheduled to work at the person's regular place of
 20 employment during the entire twelve (12) hours that the polls are
 21 open.
- 22 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 23 (9) The voter is prevented from voting due to observance of a
 24 religious discipline or religious holiday during the entire twelve
 25 (12) hours that the polls are open.
- 26 (10) The voter is an address confidentiality program participant
 27 (as defined in IC 5-26.5-1-6).
- 28 (11) The voter is a member of the Indiana National Guard
 29 deployed or on assignment inside Indiana or a public safety
 30 officer.
- 31 (12) The voter is a serious sex offender (as defined in
 32 IC 35-42-4-14(a)).
- 33 (13) The voter is prevented from voting due to the unavailability
 34 of transportation to the polls.
- 35 (b) An absent uniformed services voter or overseas voter is entitled
 36 to vote by mail using the combined absentee registration form and
 37 absentee ballot request approved under 52 U.S.C. 20301(b)(2).
- 38 (c) A county shall mail an absentee ballot to a voter under this
 39 section by nonforwardable United States Postal Service mail.
- 40 (d) Except as provided in subsection (1), a voter with disabilities
 41 who:
 42 (1) is unable to make a voting mark on the ballot or sign the



1 absentee ballot secrecy envelope; and
 2 (2) requests that the absentee ballot be delivered to an address
 3 within Indiana;
 4 must vote before an absentee voter board under section 25(b) of this
 5 chapter.

6 (e) If a voter receives an absentee ballot by mail, the voter shall
 7 personally mark the ballot in secret and seal the marked ballot inside
 8 the envelope provided by the county election board for that purpose.
 9 The voter shall:

10 (1) deposit the sealed envelope in the United States mail for
 11 delivery to the county election board; or

12 (2) authorize a member of the voter's household, family listed in
 13 IC 3-6-6-7(a)(4), or the individual designated as the voter's
 14 attorney in fact to:

15 (A) deposit the sealed envelope in the United States mail; or
 16 (B) deliver the sealed envelope in person to the county
 17 election board at:

18 (i) the office of the circuit court clerk or the office of the
 19 board of elections and registration under section 26 of this
 20 chapter;

21 (ii) a satellite office of the circuit court clerk designated
 22 under section 26.3 of this chapter; or

23 (iii) a satellite office of a vote center under IC 3-11-18.1-11.

24 A voter who delivers the sealed envelope under this clause
 25 may request a replacement absentee ballot under IC 3-11.5-4-2
 26 and cast a replacement absentee ballot at an office or vote
 27 center described in items (i) through (iii).

28 (f) A county election board shall reject an absentee ballot deposited
 29 in a drop box or other container or location that is not under the
 30 physical control and supervision of the county election board when the
 31 ballot is deposited.

32 (g) If a drop box or other container is located in a building under the
 33 control of a political subdivision in which a document may be
 34 deposited for other purposes related to the office of the circuit court
 35 clerk or an office of any other political subdivision, the political
 36 subdivision in control of the drop box or container shall post a notice
 37 on or in a prominent location adjacent to the drop box or container
 38 saying substantially as follows: "Do not deposit a voted absentee ballot
 39 into this box or container. The absentee ballot will not be counted."

40 (h) If an absentee ballot is deposited into a box or container in
 41 violation of subsection (f) or (g), the county election board shall mark
 42 the absentee ballot security envelope as rejected and, if possible,



1 promptly notify the individual whose name appears on the security
2 envelope containing the absentee ballot.

3 (i) If a member of the voter's household, family listed in
4 IC 3-6-6-7(a)(4), or the voter's attorney in fact delivers the sealed
5 envelope containing a voter's absentee ballot to the county election
6 board, the individual delivering the ballot shall complete an affidavit
7 in a form prescribed by the election division. The affidavit must
8 contain the following information:

9 (1) The name and residence address of the voter whose absentee
10 ballot is being delivered.

11 (2) A statement of the full name, residence and mailing address,
12 and daytime and evening telephone numbers (if any) of the
13 individual delivering the absentee ballot.

14 (3) A statement indicating whether the individual delivering the
15 absentee ballot is a member of the voter's household, family listed
16 in IC 3-6-6-7(a)(4), or is the attorney in fact for the voter. If the
17 individual is the attorney in fact for the voter, the individual must
18 attach a copy of the power of attorney for the voter, unless a copy
19 of this document has already been filed with the county election
20 board.

21 (4) The date and location at which the absentee ballot was
22 delivered by the voter to the individual delivering the ballot to the
23 county election board.

24 (5) A statement that the individual delivering the absentee ballot
25 has complied with Indiana laws governing absentee ballots.

26 (6) A statement that the individual delivering the absentee ballot
27 is executing the affidavit under the penalties of perjury.

28 (7) A statement setting forth the penalties for perjury.

29 (j) The county election board shall record the date and time that the
30 affidavit under subsection (i) was filed with the board.

31 (k) After a voter has mailed or delivered an absentee ballot to the
32 office of the county election board, the voter may not recast a ballot,
33 except as provided in IC 3-11-4-17.7, IC 3-11.5-4-2, and
34 IC 3-11.5-4-21.

35 (l) A voter with print disabilities may vote by using the system
36 developed by the secretary of state under IC 3-11-4-6(k).

37 **SECTION 8. An emergency is declared for this act.**

