

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE ENROLLED ACT No. 558

---

AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 3-6-3.7-6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 6. (a) If, upon investigation, the secretary of state determines that a criminal violation of this title may have occurred, the secretary of state and the co-directors of the election division shall refer the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed.**

**(b) The secretary of state and election division shall assist the prosecuting attorney in prosecuting an action under this section, which may include an attorney employed by the secretary of state or the election division serving as a special deputy prosecutor appointed by the prosecuting attorney.**

SECTION 2. IC 3-6-4.9 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

**Chapter 4.9. Administrative Enforcement of Election Law**  
**Sec. 1. This chapter does not apply to enforcement of a provision of IC 3-9.**

**Sec. 2. As used in this chapter, "agency" refers to the following:**

**(1) The election division, if the commission is the enforcement authority.**

SEA 558 — Concur



**(2) The county election board, if the county election board is the enforcement authority.**

**Sec. 3.** As used in this chapter, "enforcement authority" refers to either of the following:

**(1) The commission, which has exclusive jurisdiction under this chapter for matters relating to elections and candidates for state, legislative, and judicial offices.**

**(2) The county election board, which has jurisdiction under this chapter for matters relating to elections and candidates for local and school board offices.**

**Sec. 4.** Proceedings of an enforcement authority under this chapter are subject to IC 4-21.5.

**Sec. 5.** (a) If the commission is the enforcement authority, a commission member, or the co-directors, with the authorization of the commission, may conduct a hearing or an investigation, take evidence, and report back to the commission for its consideration and action.

(b) If a county election board is the enforcement authority, a county election board member may conduct a hearing or an investigation, take evidence, and report back to the board for its consideration and action.

**Sec. 6.** If a civil penalty is imposed under this chapter, any investigative costs incurred and documented by the agency shall be added to the civil penalty imposed.

**Sec. 7.** Civil penalties and investigative costs shall be deposited in the fund designated under this chapter.

**Sec. 8.** An enforcement authority may, upon the unanimous vote of its entire membership, find that imposition of a civil penalty required to be imposed under this chapter would be unjust under the circumstances and do either of the following:

**(1) Waive the penalty.**

**(2) Reduce the penalty to an amount specified by the enforcement authority.**

**Sec. 9.** (a) If a person is notified by the agency that the enforcement authority may assess a proposed civil penalty under this chapter against the person, the person may enter into an agreement with the agency to pay the proposed penalty and waive a hearing before the enforcement authority.

(b) An agreement entered into under this section must:

**(1) provide for the payment of the entire proposed civil penalty not later than the date of the execution of the agreement; and**



**(2) be presented to the enforcement authority by the agency for ratification at the enforcement authority's next regularly scheduled meeting.**

**Sec. 10. (a) This section does not apply to a person whose sole act is, in the normal course of business, the printing, distribution, or mailing of the communication containing the information.**

**(b) A person who violates IC 3-11-4-5.2 by mailing a communication that does not contain the information in the manner described by IC 3-11-4-5.2(b) or IC 3-11-4-5.2(c) is subject to a civil penalty as provided in this section.**

**(c) If the enforcement authority determines that a person is subject to a civil penalty under this section, the enforcement authority may assess a civil penalty of not more than one thousand dollars (\$1,000) for each communication circulated or published (but not for each of the copies of the communication actually circulated or published).**

**(d) Penalties and costs collected under this section shall be deposited in the election administration assistance fund established by IC 3-11-6.5-2.**

SECTION 3. IC 3-6-6-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 28. A member of a precinct election board is entitled to compensation under sections 25 and 26 of this chapter only if the member complies with the requirements of:

- (1) IC 3-12-2-7;**
- (2) IC 3-12-3-10; and**
- (3) IC 3-12-3.5-4.**

A person who violates IC 3-12-2-7, **IC 3-12-3-10, or IC 3-12-3.5-4**, as determined by the county election board, may not be selected to serve as a member of a precinct election board in the county where the person committed the violation for five (5) years after the date of the violation.

SECTION 4. IC 3-7-26.3-15, AS AMENDED BY P.L.128-2015, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. **(a) As required under 52 U.S.C. 21083, the election division and each county voter registration office shall provide adequate technological security measures to prevent unauthorized access to the computerized list.**

**(b) The computerized list must employ two-factor authentication methods to restrict access to the computerized list.**

**(c) A person may not access the computerized list without using a multi-factor authentication method approved by the secretary of state and the co-directors of the election division.**

**SEA 558 — Concur**



**(d) The county voter registration officer shall file a statement with the election division setting forth the name and contact information of at least one (1) individual who is to serve as a point of contact for the state to communicate with the county regarding cybersecurity issues.**

SECTION 5. IC 3-7-26.4-4, AS AMENDED BY P.L.169-2015, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The election division may provide parts and reports from the voter registration information from the computerized list for the purposes specified under IC 3-7-26.3-29.

(b) Except as otherwise provided in this section, the parts and reports provided under this section may not include information described under section 8 of this chapter.

(c) The parts and reports may contain the information described in section 8 of this chapter if:

(1) the part or report is to be provided to an entity that:

(A) is described in section 6 of this chapter; and

(B) has previously submitted an application to the election division and paid any required fee to obtain the complete compilation; or

(2) the part or report is a purely statistical compilation that:

(A) includes the information described in section 8 of this chapter; and

(B) does not include any information:

(i) concerning an individual voter; or

(ii) that would permit the identification of an individual voter as a result of providing the compilation.

(d) The parts and reports provided under this section may not include the complete Social Security number of any individual.

(e) The election division may provide the registration information described in section 8 of this chapter, including an individual's voting history, as follows:

(1) To states and local governments in states that are implementing the **any** voter list maintenance program described in IC 3-7-38.2-5, **including a program implemented with information obtained from another state under IC 3-7-38.2-5(b).**

(2) Upon written request, to law enforcement officials conducting an investigation.

SECTION 6. IC 3-7-27-15, AS AMENDED BY P.L.219-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. (a) This section does not apply to a county

**SEA 558 — Concur**



acting in accordance with section 21.1 or 22 of this chapter.

(b) The county voter registration office shall keep all original affidavits or forms of registration ~~(or duplicate affidavits or forms)~~ securely arranged and maintained in the office.

SECTION 7. IC 3-7-38.2-2, AS AMENDED BY P.L.201-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter list maintenance program conducted under this chapter must:

- (1) be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (52 U.S.C. 10101);
- (2) not result in the removal of the name of a person from the official list of voters solely due to the person's failure to vote; and
- (3) be completed not later than ninety (90) days before a primary, general, or municipal election.

(b) A county voter registration office may conduct a voter list maintenance program that complies with subsection (a). In conducting a voter list maintenance program, the county voter registration office shall mail a notice described in subsection (d) to each voter whose registration has not previously been canceled or designated as inactive under this chapter at the mailing address:

- (1) listed in the voter's registration record; and
- (2) determined by the county voter registration office not to be the voter's current residence address.

(c) A county voter registration office may use information only from the following sources to make the determination under subsection (b)(2):

- (1) The United States Postal Service National Change of Address Service.
- (2) A court regarding jury duty notices returned because of an unknown or insufficient address.
- (3) The return of a mailing sent by the county voter registration office to all active voters (as defined in IC 3-11-18.1-2) in the county because of an unknown or insufficient address.
- (4) The bureau of motor vehicles concerning the surrender of a voter's Indiana license for the operation of a motor vehicle to another jurisdiction.
- (5) The return by the United States Postal Service after the expiration of the seven (7) day pending period of a notice regarding the disposition of a voter registration application under IC 3-7-33-5 because of an unknown or insufficient address.
- (6) The return of a mailing sent to voters of a precinct advising voters of a change of precinct boundary or the precinct polling

**SEA 558 — Concur**



place because of an unknown or insufficient address, if the county sends a similar mailing to the voters of each precinct when a boundary or polling place is changed.

(7) Information received from the election division under **section 5 of this chapter or** section 16 of this chapter.

**(8) A declination to register by the voter stating that the voter resides at an address different from the address on the voter's registration record.**

(d) The notice described in subsection (b) must:

(1) be sent by first class United States mail, postage prepaid, by a method that requires the notice to be forwarded to the voter; and

(2) include a postage prepaid return card that:

(A) is addressed to the county voter registration office;

(B) states a date (which must be at least thirty (30) days after the date the notice is mailed) by which the card must be returned or the voter's registration will become inactive until the information is provided to the county voter registration office; and

(C) permits the voter to provide the voter's current residence address.

(e) If a voter returns the card described in subsection (d)(2) and provides a current residence address that establishes that the voter resides:

(1) in the county, the county voter registration office shall update the voter's registration record; or

(2) outside the county, the county voter registration office shall cancel the voter's registration.

(f) If a card is returned as undeliverable due to an unknown or insufficient address by the United States Postal Service after the date specified in subsection (d)(2)(B), the county voter registration office shall, when registration reopens after the next primary, general, or municipal election, determine whether the voter voted or appeared to vote from the address set forth in the registration record at any election occurring after the final day for completing voter list maintenance activities, and if not, then designate the voter as inactive.

(g) If a voter does not return the card described in subsection (d)(2) by the date specified in subsection (d)(2)(B), the county voter registration office shall indicate in the voter's registration record that the voter's registration is inactive.

(h) A voter's registration that becomes inactive under subsection (f) or (g) remains in inactive status from the date described in subsection (d)(2)(B) until the earlier of the following:



- (1) The date the county voter registration office updates or cancels the voter's registration under subsection (e) after the voter provides a current residence address.
- (2) The day after the second general election in which the voter has not voted or appeared to vote.
- (i) After the date described in subsection (h)(2), the county voter registration office shall remove the voter's registration from the voter registration records.

SECTION 8. IC 3-7-39-7, AS AMENDED BY P.L.169-2015, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section applies to a voter who changes residence to an address in the same precinct where the voter's former residence was located, **except for a voter who changes residence from a location within a municipality to a location outside of the municipality but within the same precinct.**

(b) As required under 52 U.S.C. 20507(e)(1), a voter described in subsection (a) may vote at the precinct polling place after the voter makes an oral or a written affirmation of the change of address before a member of the precinct election board.

(c) A person entitled to make a written affirmation under subsection (b) may make an oral affirmation. The person must make the oral affirmation before the poll clerks of the precinct. After the person makes an oral affirmation under this subsection, the poll clerks shall:

- (1) reduce the substance of the affirmation to writing at an appropriate location on the poll list; and
- (2) initial the affirmation.

(d) This subsection applies to a county that has adopted an order under IC 3-7-29-6(a)(1) or is a vote center county under IC 3-11-18.1. A voter described in subsection (a) may make a written affirmation of the voter's change of residence on election day using the affidavit prescribed by the election division under IC 3-10-11-6. If the voter makes an oral affirmation under this subsection, the poll clerks shall reduce the substance of the affirmation to writing using the affidavit prescribed by the commission under IC 3-10-11-6 and initial the affirmation.

SECTION 9. IC 3-10-1-7.2, AS AMENDED BY P.L.53-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.2. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at a primary election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in a primary election, a precinct election officer shall ask the

**SEA 558 — Concur**



voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

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

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

(e) A voter who votes in person at a precinct polling place, **vote center, or satellite office established under IC 3-11-10-26.3** that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in a primary election.

SECTION 10. IC 3-10-1-31.1, AS AMENDED BY P.L.116-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.

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

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots (including provisional ballots) and other material (including election material related to provisional ballots) during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d) and notwithstanding any other provision of state law, after the recount or contest filing period, the election material, including election material related to provisional ballots (except for ballots and provisional ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 52 U.S.C. 20701, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued

**SEA 558 — Concur**



under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 52 U.S.C. 10301;

requires the continued preservation of the ballots or other material.

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

(e) Upon delivery of the poll lists, the county voter registration office shall unseal the envelopes containing the poll lists, inspect the poll lists, and update the registration records of the county. The county voter registration office shall use the poll lists and information on affidavits executed under IC 3-10-10, IC 3-10-11, or IC 3-10-12 to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list and affidavits shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(f) In addition to the poll lists described in subsection (e), the county voter registration office shall use the affidavits described by IC 3-10-10-7, IC 3-10-11-4, and IC 3-10-12-3.4 to update the registration records of the county as soon as the affidavits are delivered to the county voter registration office.

(g) The county voter registration office shall retain a voter's paper registration records associated with the address at which the voter is registered to vote until all of the following are satisfied:

- (1) The voter's registration at the address stated in the voter's registration application has been ~~cancelled~~ canceled.
- (2) The general election immediately following the cancellation of the voter's registration under subdivision (1) has occurred.
- (3) Twenty-four (24) months have elapsed following the general election described in subdivision (2).

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

**SEA 558 — Concur**



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

(j) This subsection applies to a detachable recording unit or compartment used to record a ballot cast on a direct record electronic voting system. After the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election, the circuit court clerk shall transfer the data contained in the unit or compartment to a disc or other recording medium. After transferring the data, the clerk may clear or erase the unit or compartment. The circuit court clerk shall carefully preserve the disc or medium used to record the data for twenty-two (22) months, as required by 52 U.S.C. 20701, after which time the disc or medium may be erased or destroyed, subject to IC 5-15-6, unless an order requiring the continued preservation of the disc or medium is issued under the following:

- (1) IC 3-12-6-19.
- (2) IC 3-12-11-16.
- (3) 52 U.S.C. 10301.

SECTION 11. IC 3-11-4-5.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 5.2. (a) This section does not apply to a direct mailing of one hundred (100) or less substantially similar pieces of mail.**

**(b) A communication including an absentee ballot application form:**

**(1) approved or authorized for use in Indiana; and  
(2) transmitted through the United States Postal Service;  
must include the information required by this section.**

**(c) The communication must set forth the name and mailing address of the person who mailed the communication and be presented in a clear and conspicuous manner to give the recipient adequate notice of the identity of the person who mailed the communication. A communication does not comply with this requirement if the information is difficult to read or is placed in a location which is easily overlooked.**

**(d) The communication must satisfy both of the following:**

- (1) The communication must contain the information described in subsection (c) in at least 12 point type size that is clearly readable by the recipient of the mailing.**
- (2) The information must be printed with a reasonable degree of color contrast between the background and the printed statement. A communication complies with this subdivision if**



**the information is printed in black text on a white background or the degree of color contrast between the background and the text of the information is not less than the color contrast between the background and the largest text included in the mailing.**

SECTION 12. IC 3-11-4-17.5, AS AMENDED BY P.L.128-2015, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board (or the absentee voter board in the office of the circuit court clerk) shall determine if:

- (1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;
- (2) the information set forth on the application appears to be true;
- (3) the signature of the voter on the application substantially conforms with the signature of the voter on the voter registration record, or that any substantial difference between the signatures can be accounted for by age or disability of the voter or the execution of the affidavit by an individual acting under section 2(b) of this chapter; and
- (4) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (4), the issue shall be referred to the county election board for determination. If the application is submitted by a voter wanting to cast an absentee ballot under IC 3-11-10-26, the voter shall be permitted to cast a provisional ballot, which the county election board shall retain. ~~and not transmit to the voter's precinct.~~

(b) If:

- (1) the applicant is not a voter of the precinct according to the registration record; or
- (2) the application as completed and filed:
  - (A) contains a false statement; or
  - (B) does not otherwise comply with Indiana or federal law; as alleged under section 18.5 of this chapter, the county election board shall deny the application.

(c) A voter's failure to provide the information requested under section 5.1(d) of this chapter does not affect a voter's ability to receive an absentee ballot. A county election board may not deny an application because the voter has not provided the information

**SEA 558 — Concur**



requested under section 5.1(d) of this chapter as a part of the voter's application for an absentee ballot.

(d) This subsection applies to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 52 U.S.C. 20302(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and
- (2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

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

- (1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and
- (2) the applicant has filed this documentation according to the records of the county voter registration office.

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

(f) If the applicant:

- (1) is a voter of the precinct according to the registration record; and
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record;

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

SECTION 13. IC 3-11-4-17.7, AS AMENDED BY P.L.128-2015, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17.7. (a) This section applies when a voter:

**SEA 558 — Concur**



- (1) has been mailed the official ballot under this chapter; and
- (2) notifies the county election board that:
  - (A) the ballot has been destroyed, spoiled, lost, or not received by the voter after a reasonable time has elapsed for delivery of the ballot by mail;
  - (B) the absentee ballot does not bear the bipartisan initials required under section 19 of this chapter; or**
  - (C) the absentee ballot envelope was not signed by the voter.**

(b) As required under 52 U.S.C. 21081, the voter may obtain a replacement official ballot under the procedures set forth in this chapter after the voter files a statement with the county election board. The statement must affirm, under penalties of perjury, that the voter did not receive the official ballot (or that the ballot was received by the voter, but was destroyed, spoiled, or lost), and must set forth any facts known by the voter concerning the destruction, spoiling, or loss of the ballot.

(c) After a voter files the statement required under subsection (b), the county election board ~~may issue a replacement official ballot to the voter in accordance with this chapter and shall include information regarding the official replacement ballot in the certification provided to the precinct inspector under section 22 of this chapter~~. circuit court clerk shall do the following:

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

(d) After receiving the official replacement ballot, the voter shall destroy any spoiled ballot in the possession of the voter or any lost or delayed official ballot that comes into the possession of the voter.

SECTION 14. IC 3-11-4-17.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17.8. (a) This section applies to a replacement ballot issued under section 17.7 of this chapter.

(b) The county election board shall enclose the official replacement ballot in an envelope that complies with section 20 of this chapter. The envelope must contain a notation that the envelope contains an official replacement ballot.

(c) If the county election board receives both an original absentee ballot and an official replacement ballot issued under section 17.7 of

**SEA 558 — Concur**



this chapter from the same voter, the board shall reject the original absentee ballot. ~~and deliver only the official replacement ballot to the precinct election board.~~

SECTION 15. IC 3-11-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Subject to IC 3-5-4-9, a ballot that is mailed must bear the circuit court clerk's official seal and signature or facsimile signature on the back of the ballot. Before the ballot is mailed:

- (1) the two (2) members of the absentee voter board in the office of the circuit court clerk; or
- (2) the two (2) appointed members of the county election board or their designated representatives;

shall place their initials in ink on the back of the ballot. The initials must be in the persons' ordinary handwriting or printing and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary.

(b) An absentee ballot that is voted before an absentee voter board under IC 3-11-10-25, ~~or~~ IC 3-11-10-26, ~~or~~ **IC 3-11-10-26.3**, must bear the seal, signature, and initials prescribed by IC 3-11-10-27.

SECTION 16. IC 3-11-4-21, AS AMENDED BY P.L.169-2015, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 52 U.S.C. 20302(b) and with the name of the precinct completed by the county election board, providing that the voter affirms under penalty of perjury that the following information is true:

- (1) That the voter is:
  - (A) a resident of; or
  - (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.
- (2) The voter's complete residence address, including the name of the city or town and county.
- (3) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.
- (4) That:
  - (A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person; ~~or~~
  - (B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the

**SEA 558 — Concur**



envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question. ~~or (c) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.~~

- (5) The date and the voter's signature.
- (b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.
- (c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.
- (d) (b) The side of the envelope containing this affidavit must also set forth the penalties for perjury.

SECTION 17. IC 3-11-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. The inspector of each precinct shall **do both of the following**:

- (1) Proclaim the opening and closing of the polls to the people outside the polls in a loud tone of voice.
- (2) **Record the number of individuals who are waiting to vote, but have not yet signed the poll list, as of each of the following times:**
  - (A) The opening of the polls.
  - (B) 12:30 p.m. on election day.
  - (C) The closing of the polls.

**The inspector shall record these numbers on a form prescribed under IC 3-5-4-8.**

SECTION 18. IC 3-11-8-25.1, AS AMENDED BY P.L.74-2017, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 25.1. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in the election, a precinct election officer shall ask the voter to provide proof of identification. One (1) of each of the precinct election officers nominated by each county chairman of a major political party



of the county under IC 3-6-6-8 or IC 3-6-6-9 is entitled to ask the voter to provide proof of identification. The voter shall produce the proof of identification to each precinct officer requesting the proof of identification before being permitted to sign the poll list.

(c) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22.1 of this chapter, the voter ~~may~~: **shall**:

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

(e) A voter who votes in person at a precinct polling place, **vote center, or satellite office established under IC 3-11-10-26.3** that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.

(f) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. In a vote center county using an electronic poll list, two (2) election officers who are not members of the same political party must be present when a voter signs in on the electronic poll list. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list or to provide the following information for entry into the electronic poll list:

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

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

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

(h) The poll clerk, an assistant poll clerk, or a member of the



precinct election board shall ask the voter to provide proof of identification.

(i) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the voter's registration record provided by the county voter registration office under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(j) If:

- (1) the poll clerk does not execute a challenger's affidavit; or
- (2) the voter executes a challenged voter's affidavit under section 22.1 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

(k) The electronic poll book (or each line on a poll list sheet provided to take a voter's current address) must include a box under the heading "Address Unchanged". A voter whose address is unchanged shall check the box instead of writing the voter's current address on the poll list, or if an electronic poll book is used, the poll clerk shall check the box after stating to the voter the address shown on the electronic poll book and receiving an oral affirmation from the voter that the voter's residence address shown on the poll list is the voter's current residence address instead of writing the voter's current residence address on the poll list or reentering the address in the electronic poll book.

(l) If the voter indicates that the voter's current residence is located within another county in Indiana, the voter is considered to have directed the county voter registration office of the county where the precinct is located to cancel the voter registration record within the county. The precinct election board shall provide the voter with a voter registration application for the voter to complete and file with the county voter registration office of the county where the voter's current residence address is located.

(m) If the voter indicates that the voter's current residence is located outside Indiana, the voter is considered to have directed the county voter registration office of the county where the precinct is located to cancel the voter registration record within the county.

SECTION 19. IC 3-11-8-25.2, AS AMENDED BY P.L.128-2015, SECTION 178, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 25.2. (a) The poll clerk or assistant

**SEA 558 — Concur**



poll clerk shall examine the list provided under IC 3-7-29-1 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 52 U.S.C. 21083 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, in addition to the proof of identification required by section 25.1(a) of this chapter, a piece of identification described in subsection (b) to the poll clerk.

(b) As required by 52 U.S.C. 21083, and in addition to the proof of identification required by section 25.1(a) of this chapter, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

- (1) A current and valid photo identification.
- (2) A current utility bill.
- (3) **A current** bank statement.
- (4) **A current** government check.
- (5) **A current** paycheck. **or**
- (6) **A current** government document.

that shows The **document presented by the voter must show the** name and **residence** address of the voter.

(c) If a voter presents a document under subsection (b), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(d) If a voter required to present documentation under subsection (b) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(e) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

SECTION 20. IC 3-11-9-3, AS AMENDED BY P.L.221-2005, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following individuals shall assist a voter described by section 2 of this chapter who requests assistance in voting before entering the voting booth but does not wish to designate a person under that section.

- (1) The two (2) judges if the voter is voting at a precinct.

**SEA 558 — Concur**



(2) Two (2) members of the absentee voter board if the voter is voting absentee.

(b) ~~This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board.~~ The individuals described in subsection (a) shall execute a sworn affidavit on a form provided by the precinct election board stating that, to the best of the individuals' knowledge, the voter:

- (1) is a voter with disabilities or is unable to read or write English;
- (2) has requested assistance in voting; and
- (3) does not wish to designate a person to assist the voter in voting under section 2 of this chapter.

(c) The two (2) individuals described in subsection (a) shall then accompany the voter into the voting booth to assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the electronic voting system.

SECTION 21. IC 3-11-10-1, AS AMENDED BY P.L.198-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, except as provided in subsection (b), do the following:

- (1) Mark the ballot in the presence of no other person.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.
- (5) Securely seal the envelope.
- (6) Do one (1) of the following:
  - (A) ~~Mail~~ **Deliver** the envelope to the county election board, with not more than one (1) ballot per envelope, **by United States mail or by a bonded courier company**.
  - (B) Deliver the envelope to the county election board in person.
  - (C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5 for delivery to the county election board:
    - (i) in person;
    - (ii) by United States mail; or
    - (iii) by a bonded courier company.

(b) A voter permitted to transmit the voter's absentee ballots by fax or electronic mail under IC 3-11-4-6 is not required to comply with

**SEA 558 — Concur**



subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax or electronic mail shall do the following upon receipt of an absentee ballot transmitted by fax:

- (1) Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.
- (2) Fold each ballot received from the voter separately so as to conceal the marking.
- (3) Enclose each ballot in a blank absentee ballot envelope.
- (4) Securely seal the envelope.
- (5) Mark on the envelope: "Absentee Ballot Received by Fax or Electronic Mail".
- (6) Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.

(c) Except as otherwise provided in this title, absentee ballots received by fax or electronic mail shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed.

SECTION 22. IC 3-11-10-26, AS AMENDED BY P.L.71-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 26. (a) This subsection applies to all counties, except for a county to which IC 3-6-5.2 applies. As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board at any of the following:

- (1) One (1) location of the office of the circuit court clerk designated by the circuit court clerk.
- (2) A satellite office established under section 26.3 of this chapter.

(b) This subsection applies to a county to which IC 3-6-5.2 applies. As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board at any of the following:

- (1) The office of the board of elections and registration.
- (2) A satellite office established under section 26.3 of this chapter.

(c) Except for a location designated under subsection (a)(1), a location of the office of the circuit court clerk must be established as a satellite office under section 26.3 of this chapter in order to be used as a location at which a voter is entitled to cast an absentee ballot before an absentee voter board under this section.

(d) The voter must do the following before being permitted to vote:

- (1) This subdivision does not apply to a county that uses electronic poll books for voting under this section. Sign an



application on the form prescribed by the election division under IC 3-11-4-5.1. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(2) This subdivision applies only to a county that uses electronic poll books for voting under this section and in which the ballot is cast on an electronic voting system. The voter must do the following:

- (A) If the county election board has prescribed an affidavit under subsection (e) that includes a unique identifier to comply with section 26.2(c)(3) of this chapter, make and subscribe to the affidavit.
- (B) Sign the electronic poll book.
- (C) Provide proof of identification.

(3) This subdivision applies only to a county that uses electronic poll books for voting under this section and in which the ballot is cast on an optical scan voting system. The voter must do the following:

- (A) Sign the electronic poll book.
- (B) Provide proof of identification.
- (C) Sign the affidavit prescribed by section 29 of this chapter.

(e) The county election board may:

- (1) prescribe an affidavit that includes a unique identifier; or
- (2) establish a procedure to produce a document, label, or electronic record that is associated with each voter and includes a unique identifier;

to comply with section 26.2(c)(3) of this chapter. After the county election board approves an affidavit or procedure described in this subsection and before the affidavit or procedure is used in an election, the county election board shall file a copy of the affidavit or a brief description of the procedure with the election division to assist the state recount commission in conducting proceedings under IC 3-12-11.

(f) The voter may vote before the board not more than twenty-eight (28) days nor later than noon on the day before election day. If the close of a voter registration period is transferred under IC 3-5-4-1.5 from twenty-nine (29) days to a later date due to the Columbus Day holiday, the voter may vote before the board on the first day following the day on which the voter registration period closes.

(g) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-eight (28) days before the election and not later than noon on election day. If the close of a voter registration period is transferred under IC 3-5-4-1.5 from



twenty-nine (29) days to a later date due to the Columbus Day holiday, the voter may vote before the board on the first day following the day on which the voter registration period closes. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(h) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(i) Notwithstanding subsection (h), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(j) As provided by 52 U.S.C. 21081, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted; (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(k) As provided by 52 U.S.C. 21081, when an absentee ballot is provided under this section, the board must also provide the voter with:

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

(l) If:

(1) the voter is unable or declines to present the proof of identification; or (2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;



the voter shall be permitted to cast ~~an absentee ballot and the voter's absentee ballot shall be treated as~~ a provisional ballot.

(m) A voter casting an absentee ballot under this section is entitled to cast the voter's ballot in accordance with IC 3-11-9.

SECTION 23. IC 3-11-10-26.2, AS AMENDED BY P.L.169-2015, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 26.2. (a) A county election board or board of elections and registration shall comply with IC 3-11-9-6 by providing an electronic voting system for voting by absentee ballot in the office of the circuit court clerk, the board of elections and registration, or a satellite office established under section 26.3 of this chapter, by a voter with disabilities or any other qualified absentee voter who wishes to cast an absentee ballot on the electronic voting system.

(b) The county election board or board of elections and registration may adopt a resolution under this section to authorize the circuit court clerk to use an electronic voting system for voting by voters eligible to cast an absentee ballot before an absentee board under section 25 of this chapter. A resolution adopted under this section must be adopted by the unanimous vote of the board's entire membership.

(c) A county providing absentee ballot voting under this section must adopt procedures to do the following:

(1) Secure absentee votes cast on an electronic voting system that provide protection comparable to the protection provided to absentee votes cast by paper ballot.

(2) Compare the signature on an absentee ballot application (**or on an electronic poll book if no application was executed by the voter**) with the applicant's signature on the applicant's voter registration record.

(3) Ensure that an invalid ballot (as determined under IC 3-11.5) is not counted.

(4) Specify how a spoiled absentee ballot is to be canceled in the direct record electronic voting system if a voter casts and returns a replacement absentee ballot.

(d) A resolution adopted under this section may contain other provisions to implement this section that the board considers useful and that are not contrary to Indiana or federal law.

(e) If a resolution is adopted under this section, the circuit court clerk may use as many electronic voting machines for recording absentee votes as the clerk considers necessary, subject to the resolution adopted by the board.

(f) Notwithstanding any other law, an absentee ballot voted on an

**SEA 558 — Concur**



electronic voting system under this section is not required to bear the seal, signature, and initials prescribed by section 27 of this chapter.

(g) If a resolution is adopted under this section, the procedure for casting an absentee ballot on an electronic voting system must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk under section 26 of this chapter.

SECTION 24. IC 3-11-10-27, AS AMENDED BY P.L.169-2015, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) This section does not apply to a ballot mailed to a voter under this chapter.

(b) Subject to IC 3-5-4-9, before a ballot is voted under section 25 of this chapter before an absentee voter board, it must bear the circuit court clerk's official seal and signature or facsimile signature and be initialed by the absentee voter board visiting the voter under section 25(b) of this chapter (except in a county subject to subsection (d)).

(c) Subject to IC 3-5-4-9, before a ballot is:

- (1) voted under section 26 or **26.3** of this chapter; or
- (2) placed in a secrecy envelope if it has been marked using a marking device for an optical scan ballot;

the ballot must bear the circuit court clerk's official seal and signature or facsimile signature and be initialed by the county election board or the board's designated representatives under IC 3-11-4-19.

(d) A county election board may adopt a resolution providing that the absentee ballots to be voted before an absentee voter board visiting the voter under section 25(b) of this chapter must be initialed by the county election board or the board's representatives under IC 3-11-4-19 and not by the absentee voter board visiting the voter. A resolution adopted under this subsection remains in effect until rescinded by the county election board. The election board may not rescind the resolution during the final sixty (60) days before an election.

(e) The initials must be:

- (1) in ink on the back of the ballot, in the person's ordinary handwriting or printing, and without a distinguishing mark of any kind; or
- (2) in a vote center county using an electronic poll list:
  - (A) printed on the back of the ballot by a printer separate from the electronic poll list, immediately before the ballot is delivered to the voter; and
  - (B) the initials of the county election board or the board's representatives captured through the electronic signature pad or tablet at the time the county election board or the board's

**SEA 558 — Concur**



representatives log into the electronic poll book system.

(f) A resolution adopted under subsection (d) may also provide that a precinct designation is not required to be preprinted on absentee ballots printed immediately before the ballot is delivered to a voter, but may be added in the same manner as the initials of the county election board or the board's representatives under IC 3-11-4-19 are added under subsection (e).

(g) No other initialing of the absentee ballot is necessary.

SECTION 25. IC 3-11-17-2, AS AMENDED BY P.L.219-2013, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. In addition to any other penalty imposed, a vendor who knowingly, recklessly, or negligently:

(1) markets, sells, leases, installs, implements, or permits the use of a voting system or an electronic poll book in an election conducted in Indiana in violation of this title; **or**

**(2) violates section 8 of this chapter;**

is subject to a civil penalty under this chapter.

SECTION 26. IC 3-11-17-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.2. **(a) This section applies to a person who, on July 1, 2019, is a vendor described in section 1 of this chapter.**

**(b) The vendor shall file the statement required by section 8 of this chapter not later than noon August 1, 2019.**

**(c) This section expires July 1, 2021.**

SECTION 27. IC 3-11-17-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. **(a) A vendor described in section 1 of this chapter shall file a statement with the election division that:**

**(1) states the name of any person who:**

**(A) is a foreign national; and**

**(B) directly or indirectly owns or controls the vendor; and**

**(2) states the nature and extent of the ownership or control of the foreign national.**

**(b) The statement described in subsection (a) must be amended to reflect any change in the identity of a foreign national subject to this section or in the nature and extent of the ownership or control of the foreign national by filing an amended statement with the election division not later than noon thirty (30) days after the change occurs.**

SECTION 28. IC 3-11.5-4-1, AS AMENDED BY P.L.76-2014, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

**SEA 558 — Concur**



JULY 1, 2019]: Sec. 1. Each circuit court clerk shall do the following:

(1) Keep a separate absentee ballot record for each precinct in the county.

(2) This subdivision applies to a county in which the county voter registration office prepares a certified list of all voters registered to vote in each precinct in the county under IC 3-7-29-1. **Either:**

**(A)** 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)** (i) to whom absentee ballots were sent or who marked ballots in person; and

**(B)** (ii) whose ballots have been received by the county election board under IC 3-11-10; **or**

**(B)** **provide a certified list of voters that have been marked to designate the names of the voters described in clause (A).**

(3) This subdivision applies to a county that has adopted an order to use an electronic poll book under IC 3-7-29-6 or is a ~~voter~~ **vote** center county under IC 3-11-18.1. Certify at the time the county voter registration office downloads information to an electronic poll book under IC 3-7-29-6(c), 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.

SECTION 29. IC 3-11.5-4-5, AS AMENDED BY P.L.64-2014, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) 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 board may enclose in the same carrier envelope all absentee ballot envelopes and applications **for the same precinct**.

(b) 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."

SECTION 30. IC 3-11.5-4-9, AS AMENDED BY P.L.169-2015, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. (a) This section does not apply to a county that:

**SEA 558 — Concur**



(1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or  
 (2) is a vote center county under IC 3-11-18.1;  
 if the electronic poll book used at a polling place or vote center is immediately updated to indicate that the county received, not later than noon on election day, an absentee ballot from a voter.

(b) 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.

**(3) Indicate next to the voter's name on either:**

**(A) the certificate prepared under section 1 of this chapter;  
 or**

**(B) the certificate delivered under section 8 of this chapter;  
 that the voter has voted in person at the polls if a person listed  
 in either certificate has voted in person at the polls.**

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.

(c) The inspector shall then deposit:

(1) the certificate prepared under section 1 of this chapter, **if any  
 was provided by the circuit court clerk;**

(2) the certificate prepared under section 8 of this chapter; and

(3) any challenge affidavit executed by a qualified person under section 15 of this chapter;

in an envelope in the presence of both poll clerks.

(d) 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.

(e) The couriers shall immediately return the envelope described in subsection (c) 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.

SECTION 31. IC 3-11.5-4-11, AS AMENDED BY P.L.210-2018,  
 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

**SEA 558 — Concur**



UPON PASSAGE]: Sec. 11. (a) Except as provided in subsection (b), (c), or (d), 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 **or electronic poll book** with the signature upon the affidavit on the ballot envelope, **or** transmitted affidavit **under IC 3-11-4-6(h), or voter registration record.**

(b) This subsection applies to a county (other than a county described in subsection (c) or (d)) that:

- (1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or
- (2) is a vote center county under IC 3-11-18.1.

Immediately after the electronic poll books used at each polling place or vote center have been updated to indicate that the county received, not later than noon on election day, an absentee ballot from a voter, the absentee ballot counters shall, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate for each office and on each public question in the precinct.

(c) This subsection applies to a county having a consolidated city, if the county:

- (1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or
- (2) is a vote center county under IC 3-11-18.1.

After the receipt and processing required under section 12 of this chapter to process an absentee ballot from a voter and after ensuring that the electronic poll books used in each polling place or vote center have been updated to reflect all absentee ballots received by the county not later than 12:01 a.m. on election day, the absentee ballot counters shall, at any time after 6:00 a.m. on election day, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate, for each office, and on each public question.

(d) This subsection applies to a county other than a county having a consolidated city, if the county election board has adopted a resolution by the unanimous vote of the entire membership of the board to use procedures set forth in this subsection, and the county:

**SEA 558 — Concur**



(1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or

(2) is a vote center county under IC 3-11-18.1.

After the receipt and processing required under section 12 of this chapter to process an absentee ballot from a voter and after ensuring that the electronic poll books used in each polling place or vote center have been updated to reflect all absentee ballots received by the county not later than 12:01 a.m. on election day, the absentee ballot counters shall, at any time after 6:00 a.m. on election day, in a central counting location designated by the county election board, count the absentee ballot votes cast for each candidate, for each office, and on each public question.

(e) A resolution adopted under subsection (d) may be repealed or amended only by the unanimous vote of the entire membership of the county election board.

SECTION 32. IC 3-11.5-4-13, AS AMENDED BY P.L.194-2013, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: 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

**SEA 558 — Concur**



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 there is no absentee ballot application from the voter to support the absentee ballot.

(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:

**(1) has been rejected under this section; or**

**(2) has not been received by the county by noon on election day and will not be counted under section 10 of this chapter;**

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.

SECTION 33. IC 3-11.5-4-21, AS AMENDED BY P.L.1-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. If an envelope containing ~~an~~ a voter's absentee ballot has been marked "Rejected" **or a voter's absentee ballot has been received by noon on election day and will not be counted under section 10 of this chapter**, 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

**SEA 558 — Concur**



board with the certificate issued under section 13(f) of this chapter.

SECTION 34. IC 3-11.5-4-24, AS AMENDED BY P.L.169-2015, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 24. (a) This section does not apply to a county that:

- (1) has adopted an order to use an electronic poll book under IC 3-7-29-6(a)(1); or
- (2) is a vote center county under IC 3-11-18.1.

(b) **This subsection does not apply if the circuit court clerk has provided a marked poll list under section 1(2)(B) of this chapter.** 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.

(c) 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 (b)(2);

under this section in the presence of both poll clerks.

(d) 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.

SECTION 35. IC 3-11.5-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

#### **Chapter 8. Counting of Absentee Ballots Cast on Electronic Voting Systems**

**Sec. 1. (a) The county election board shall make an initial determination concerning whether any absentee ballot cast on an electronic voting system must be rejected for any grounds under IC 3-11.5-4-13.**

**(b) If the county election board makes an initial determination under subsection (a) that an absentee ballot must be rejected, the county election board shall void the absentee ballot on the electronic voting system.**

**Sec. 2. After making an initial determination under section 1 of this chapter, the county election board shall process the remaining absentee ballots by producing a printout for each precinct in which**

**SEA 558 — Concur**



**an absentee ballot cast on an electronic voting system has been cast.**

**Sec. 3. After making an initial determination under section 1 of this chapter and process the ballots under section 2 of this chapter, the county election board shall tabulate the valid absentee ballots cast on the electronic voting system.**

SECTION 36. IC 3-11.7-2-2, AS AMENDED BY P.L.128-2015, SECTION 202, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A provisional voter shall do the following:

(1) Execute the affidavit described in IC 3-10-1-9 or IC 3-11-8-23.

(2) Sign the poll list.

(3) Mark the ballot in the presence of no other person, unless the voter requests help in marking a ballot under IC 3-11-9.

(4) Fold each ballot separately.

(5) Fold each ballot so as to conceal the marking.

(6) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided by the county election board under IC 3-11.7-1-8.

(7) Securely seal the envelope.

(b) A provisional voter may mark a ballot with a pen or a lead pencil.

(c) This subsection applies to a provisional voter described in section 1(a)(1), 1(a)(2), or 1(a)(3) of this chapter. As provided by 52 U.S.C. 21082, a precinct election officer shall give the provisional voter a copy of the written instructions prescribed by the county election board under IC 3-11.7-6-3 after the voter returns the envelope containing the provisional voter's ballots.

SECTION 37. IC 3-11.7-5-2.5, AS AMENDED BY P.L.169-2015, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2.5. (a) A voter who:

(1) was challenged under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26 as a result of the voter's inability or declination to provide proof of identification; and

(2) cast a provisional ballot;

may personally appear before the circuit court clerk or the county election board not later than noon ten (10) days following the election.

(b) Except as provided in subsection (c) or (e), if the voter:

(1) provides proof of identification to the circuit court clerk or county election board; and

**SEA 558 — Concur**



(2) executes an affidavit before the clerk or board, in the form prescribed by the election division, affirming under the penalties of perjury that the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day;

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

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

(1) the voter is the same individual who:

(A) personally appeared before the precinct election board **or absentee board**; and

(B) cast the provisional ballot on election day; and

(2) the voter:

(A) is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee; or

(B) has a religious objection to being photographed;

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

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

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

(2) direct that the provisional ballot be:

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

(B) processed in accordance with this chapter.

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

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

(2) proceed to determine the validity of the remaining challenges



set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

(f) If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) to:

- (1) appear before the county election board; and
- (2) execute an affidavit in the manner prescribed by subsection (b) or (c);

the county election board shall find that the voter's provisional ballot is invalid.

SECTION 38. IC 3-14-5-1, AS AMENDED BY P.L.230-2005, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has **voted offered to vote** is an illegal voter in the precinct. This section does not apply to an affidavit executed by an individual who:

- (1) is subject to the requirements set forth in IC 3-7-33-4.5;
- (2) is challenged solely as a result of the individual's inability or refusal to comply with IC 3-7-33-4.5; and
- (3) subsequently complies with IC 3-7-33-4.5 before the close of the polls on election day.

(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the county election board. ~~for delivery by~~ **After the final date and hour for filing a recount or contest and the county election board has completed the county election board's canvas of the returns, the county election board shall forward the affidavits to the prosecuting attorney for the county to the grand jury** under section 2 of this chapter. The prosecuting attorney for the county shall:

- (1) proceed as if the affidavit had been made before the prosecuting attorney; and
- (2) ensure that the grand jury notifies the NVRA official under section 2 of this chapter if a violation of NVRA appears to have occurred.

SECTION 39. IC 3-14-5-2, AS AMENDED BY P.L.230-2005, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place ~~all affidavits any affidavit~~ prescribed by ~~this title~~ **IC 3-6-6-12** for use on election day to determine the eligibility of a precinct election officer ~~(or a person who wishes to cast a ballot) and any affidavit prescribed by IC 3-10-1-9 to challenge the party affiliation of a person wishing to cast a ballot in a primary election~~

**SEA 558 — Concur**



in a strong paper bag or envelope and securely seal it. Each member shall endorse that member's name on the back of the bag or envelope.

**(b) Each precinct election board shall, at the close of the polls, place any affidavit other than an affidavit described in subsection (a) that is challenging the eligibility of a person who has offered to vote at a primary election in a strong paper bag or envelope and securely seal it. Each member shall endorse that member's name on the back of the bag or envelope.**

**(b) (c)** The inspector and judge of the opposite political party shall deliver the sealed ~~bag bags~~ or ~~envelope envelopes~~ to the county election board. The county election board shall do the following:

- (1) Remove the affidavits from the bag or envelope.
- (2) Mail a copy of each affidavit to the secretary of state.
- (3) Replace the affidavits within the bag or envelope.
- (4) Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.
- (5) Carefully preserve the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the foreman of the grand jury when next in session.

**(c) (d)** The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

**(d) (e)** The grand jury shall file a report of the result of its inquiry with:

- (1) the court; and
- (2) the NVRA official if a violation of NVRA appears to have occurred.

**(f) The prosecuting attorney shall preserve the affidavits and envelopes in accordance with IC 3-10-1-31.1, and shall return the affidavits and envelopes to the circuit court clerk after the prosecuting attorney has completed any proceeding resulting from the investigation of the affidavits and envelopes.**

SECTION 40. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "study committee" refers to the interim study committee on elections, established by IC 2-5-1.3-4(6).**

**(b) The legislative council is urged to assign to the study committee the task of studying the topic of means for verification of voter registration data.**

**(c) This SECTION expires January 1, 2020.**

SECTION 41. **An emergency is declared for this act.**

**SEA 558 — Concur**



---

President of the Senate

---

President Pro Tempore

---

Speaker of the House of Representatives

---

Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**SEA 558 — Concur**

