

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. 570

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. "Automatic tabulating machine" means:

- (1) apparatus necessary to automatically ~~examine and~~ count votes ~~as designated cast on ballots;~~ **a voting system;** and
- (2) data processing machines that can be used for counting ballots and tabulating results.

SECTION 2. IC 3-5-2-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 2.7. "Background check" refers to the "national criminal history background check" defined in IC 10-13-3-12.**

SECTION 3. IC 3-5-2-3, AS AMENDED BY P.L.169-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. "Ballot" means:

- (1) the paper ballot prepared, printed, and supplied for use at an election;
- (2) the ~~ballot label~~ **or** electronic display prepared, printed, and supplied for use on the front of an electronic voting system; or
- (3) the ballot card prepared, printed, and supplied for use in a ballot card voting system.

SECTION 4. IC 3-5-2-31, AS AMENDED BY P.L.13-2014,

SEA 570 — Concur



SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 31. "Marking device" means:

- (1) a pencil **or pen** for marking a paper ballot or ballot card; or
- (2) an approved touch-sensitive device that automatically:
 - (A) registers a vote on an electronic voting system; or
 - (B) produces a marked optical scan ballot.

SECTION 5. IC 3-5-2-33.9, AS AMENDED BY P.L.13-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 33.9. (a) "Optical scan ballot" means a card or another paper on which votes are:

- (1) recorded by marking the card with a marking device; and
- (2) tabulated by an optical system that reads the marks on the card or paper.

(b) "Optical scan voting system" means a voting system using optical scan ballots. **The term includes a voting system that consists of features of both a ballot card voting system and an electronic voting system.**

SECTION 6. IC 3-5-2-53.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 53.2. "VSTOP" refers to the voting system technical oversight program established by IC 3-11-16-2.**

SECTION 7. IC 3-7-26.3-35 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 35. (a) Not later than January 1, 2020, the secretary of state shall issue an order establishing proficiency standards for an individual employed by or acting under the authorization of a county voter registration office to be qualified to access the computerized list.**

(b) **After December 31, 2019, an individual described in subsection (a) must have demonstrated to the satisfaction of the secretary of state and the election division that the individual has been sufficiently trained and demonstrated the individual's ability to properly access the system and comply with all applicable laws governing the operation of the list in order for the individual to access the computerized list.**

(c) **The county voter registration office may revoke the authorization granted under subsection (b) for good cause, and shall file a report of the revocation with the secretary of state and the election division not later than seven (7) days after the revocation is effective.**

SECTION 8. IC 3-7-38.2-4, AS AMENDED BY P.L.128-2015, SECTION 122, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2019]: Sec. 4. (a) As provided under 52 U.S.C. 20507(c)(2)(B)(ii), this chapter does not prevent the correction of voter registration records under this article.

(b) This subsection applies to a voter registration record that does not contain a date of birth or contains a date of birth that is at least one hundred fifteen (115) years or more before the date of the request. The election division shall request that the bureau of motor vehicles provide the election division with any information kept by the bureau of motor vehicles that sets forth the date of birth of the voter. If the election division receives date of birth information under this subsection, the election division shall forward the information to the appropriate county voter registration office. The county voter registration office shall:

- (1) determine if the information applies to the voter registration record that does not contain a date of birth or contains a date of birth that is at least one hundred fifteen (115) years or more before the date of the request; and**
- (2) if the information applies, amend the voter registration record to contain the correct date of birth and document the source of the information in the computerized list.**

SECTION 9. IC 3-11-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) **Except as otherwise provided in this section,** the inspector of each precinct, or another member of the precinct election board authorized in writing by the inspector, shall appear at the office of the county election board of the inspector's county on the second or third day before election day to receive ballots and other supplies.

(b) This subsection applies to an electronic poll book. Before delivery of an electronic poll book to an inspector or the inspector's authorized representative, the county election board shall:

- (1) affix a tamper-proof numbered seal to the electronic poll book or a secure container that includes a single electronic poll book;**
- (2) record the number of the seal affixed to each electronic poll book or container; and**
- (3) provide a list of the units and the number of the unit's seal to the inspector.**

(c) A county election board may adopt a resolution by the unanimous vote of the entire membership of the county election board to use an alternative electronic poll book delivery protocol instead of using seals under subsection (b). A resolution under this subsection must set forth the following information:



(1) The method to be used to ensure that an electronic poll book is not accessed, modified, or tampered with after the electronic poll book is transferred by the county election board to the inspector or the inspector's authorized representative for delivery.

(2) The method for a precinct election board or vote center officers to determine and document on behalf of the county election board that each electronic poll book was successfully secured against improper access, modification, or tampering before delivery to the polling place or vote center.

Before any electronic poll book is delivered to a polling place or vote center, the resolution must be filed with the election division.

(d) This subsection applies to a voting system. At any time before election day:

(1) the county election board;

(2) teams consisting of at least two (2) individuals and that:

(A) are designated by the county election board;

(B) are affiliated with a political party entitled to nominate an individual to serve as an appointed member of the county election board; and

(C) have at least two (2) individuals on the team who are not members of the same political party; or

(3) a commercial delivery entity operating under a contract with the county election board;

shall deliver all voting systems to the polls for the precinct or to the vote centers.

(e) The county election board may not:

(1) designate any individual to serve on a delivery team if the individual is:

(A) imprisoned;

(B) subject to lawful detention;

(C) on probation;

(D) on parole;

(E) subject to home detention; or

(F) placed in a community corrections program; or

(2) permit a commercial delivery entity to allow any individual who is:

(A) imprisoned;

(B) subject to lawful detention;

(C) on probation;

(D) on parole;

(E) subject to home detention; or



**(F) placed in a community corrections program;
to have access to or deliver a voting system.**

(f) If a county election board uses the teams or a commercial delivery entity described in subsection (d), the board shall require that:

(1) two (2) members of each team who are not members of the same political party; or

(2) the commercial delivery entity;

execute a certificate setting forth the information set forth in subsection (g).

(g) The certificate required in subsection (f) must be signed by the two (2) members of each team described in subsection (d) or by an individual authorized to act on behalf of the commercial delivery entity. The certificate must include the following:

(1) That the voting systems remained in the custody and control of each individual during the period beginning when the voting systems were received from the county election board and ending when the voting systems were delivered to the location of the polling place or vote center.

(2) That no individual other than a team member or an individual acting on behalf of the commercial delivery entity had access to any voting system.

(3) That an individual documented receipt of the voting system at the polling location or vote center when the system was delivered.

(4) The:

(A) written name and signature of the individual; and

(B) date that the voting system was delivered to the custody of that individual.

(h) Immediately upon any delivery of a voting system, the completed certificate must be filed with the county election board.

SECTION 10. IC 3-11-3-22, AS AMENDED BY P.L.164-2006, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 22. (a) Each county election board shall have printed in at least 14 point type on cards in English, braille, and any other language that the board considers necessary, the following:

(1) Instructions for the guidance of voters in preparing their ballots.

(2) Instructions explaining the procedure for write-in voting.

(3) Write-in voting notice cards that must be posted in each precinct that utilizes a voting system that does not permit a voter to alter the voter's ballot after making a voting mark for a write-in



candidate so that the voter may vote for a candidate for that office whose name appears on the ballot.

(b) The write-in notice cards described in subsection (a)(3) must inform all voters that a voter:

- (1) who wants to cast write-in votes may cast the voter's ballot on the voting system required to be available to all voters in the precinct under ~~IC 3-11-15-13.3(e)~~; **IC 3-11-15-13.3(f)**; and
- (2) may choose to cast the voter's ballot on the voting system described in subdivision (1) without being required to indicate to any individual that the voter wishes to cast a ballot on the voting system because the voter intends to cast a ballot for a write-in candidate.

(c) The board shall furnish the number of cards it determines to be adequate for each precinct to the inspector at the same time the board delivers the ballots for the precinct and shall furnish a magnifier upon request to a voter who requests a magnifier to read the cards.

SECTION 11. IC 3-11-8-6, AS AMENDED BY P.L.225-2011, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. **(a)** The county executive shall locate the polls for each precinct in an accessible **and secure** facility.

(b) In locating the polls for a precinct, a county shall consider the relevant factors to ensure the security of the location set forth in guidance provided by the secretary of state.

SECTION 12. IC 3-11-8-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7.5. **(a)** This section applies to a precinct in which an electronic poll book is used and that contains a seal used in the manner described in IC 3-11-3-10.

(b) Before opening the polls, the inspector and the judge of the opposite political party shall determine if the seal on each electronic poll book or container of a single electronic poll book:

- (1) is intact;**
- (2) shows no evidence of tampering; and**
- (3) bears the number indicated on the list provided to the inspector by the county election board.**

(c) The inspector and the judge shall certify if each electronic poll book seal complies with subsection (b) by executing a form prescribed under IC 3-5-4-8.

(d) If the inspector or the judge determines that any electronic poll book seal does not comply with subsection (b), the inspector or the judge shall immediately notify the county election board.

SECTION 13. IC 3-11-8-10.3, AS AMENDED BY P.L.100-2018,



SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.3. (a) A reference to an electronic poll list in a vote center plan adopted under IC 3-11-18.1 before July 1, 2014, is considered to be a reference to an electronic poll book (as defined by IC 3-5-2-20.5), unless otherwise expressly provided in the vote center plan.

(b) An electronic poll book must satisfy all of the following:

(1) An electronic poll book must be programmed so that the coordinated action of two (2) election officers who are not members of the same political party is necessary to access the electronic poll book.

(2) An electronic poll book may not be connected to a voting system. However, the electronic poll book may be used in conjunction with a voting system if both of the following apply:

(A) The electronic poll book contains a device that must be physically removed from the electronic poll book by a person and the device is inserted into the voting system, with no hardware or software connection existing between the electronic poll book and the voting system.

(B) All data on the device is erased when the device is removed from the voting system and before the device is reinserted into an electronic poll book.

(3) An electronic poll book may not permit access to voter information other than:

(A) information provided on the certified list of voters prepared under IC 3-7-29-1; or

(B) information concerning any of the following received or issued after the electronic poll list has been downloaded by the county election board under IC 3-7-29-6:

(i) The county's receipt of an absentee ballot from the voter.

(ii) The county's receipt of additional documentation provided by the voter to the county voter registration office.

(iii) The county's issuance of a certificate of error.

(4) The information contained on an electronic poll book must be secure and placed on a dedicated, private server to secure connectivity between a precinct polling place or satellite absentee office and the county election board. The electronic poll book must have the capability of:

(A) storing (in external or internal memory) the current local version of the electronic poll list; and

(B) producing a list of audit records that reflect all of the idiosyncrasies of the system, including in-process audit



records that set forth all transactions.

(5) The electronic poll book must permit a poll clerk to enter information regarding an individual who has appeared to vote to verify whether the individual is eligible to vote, and if so, whether the voter has:

- (A) already received a ballot at the election;
- (B) returned an absentee ballot; or
- (C) submitted any additional documentation required under IC 3-7-33-4.5.

(6) After the voter has been provided with a ballot, the electronic poll book must permit a poll clerk to enter information indicating that the voter has received a ballot.

(7) The electronic poll book must transmit the information in subdivision (6) to the county server so that:

- (A) the server may transmit the information immediately to every other polling place or satellite absentee office in the county; or
- (B) the server makes the information immediately available to every other polling place or satellite office in the county.

(8) The electronic poll book must permit reports to be:

- (A) generated by a county election board for a watcher appointed under IC 3-6-8 at any time during election day; and
- (B) electronically transmitted by the county election board to a political party or independent candidate who has appointed a watcher under IC 3-6-8.

(9) On each day after absentee ballots are cast before an absentee voter board in the circuit court clerk's office, a satellite office, or a vote center, and after election day, the electronic poll book must permit voter history to be quickly and accurately uploaded into the computerized list (as defined in IC 3-7-26.3-2).

(10) The electronic poll book must be able to display an electronic image of the signature of a voter taken from:

- (A) the voter's registration application; or
- (B) a more recent signature of a voter from an absentee application, poll list, electronic poll book, or registration document.

(11) The electronic poll book must be used with a signature pad, tablet, or other signature capturing device that permits the voter to make an electronic signature for comparison with the signature displayed under subdivision (10). An image of the electronic signature made by the voter on the signature pad, tablet, or other signature capturing device must be retained and identified as the



signature of the voter for the period required for retention under IC 3-10-1-31.1.

(12) The electronic poll book must include a bar code capturing device that:

(A) permits a voter who presents an Indiana driver's license or a state identification card issued under IC 9-24-16 to scan the license or card through the bar code reader or tablet; and

(B) has the capability to display the voter's registration record upon processing the information contained within the bar code on the license or card.

(13) A printer separate from the electronic poll book used in a vote center county may be programmed to print on the back of a ballot card, immediately before the ballot card is delivered to the voter, the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log into the electronic poll book system.

(14) The electronic poll book must be compatible with:

(A) any hardware attached to the electronic poll book, such as signature capturing devices, bar code capturing devices, and network cards;

(B) the statewide voter registration system; and

(C) any software system used to prepare voter information to be included on the electronic poll book.

(15) The electronic poll book must have the ability to be used in conformity with this title for:

(A) any type of election conducted in Indiana; or

(B) any combination of elections held concurrently with a general election, municipal election, primary election, or special election.

(16) The procedures for setting up, using, and shutting down an electronic poll book must be reasonably easy for a precinct election officer to learn, understand, and perform. A vendor shall provide sufficient training to election officials and poll workers to completely familiarize them with the operations essential for carrying out election activities. A vendor shall provide an assessment of learning goals achieved by the training in consultation with VSTOP (as described in IC 3-11-18.1-12).

(17) The electronic poll book must enable a precinct election officer to verify that the electronic poll book:

(A) has been set up correctly;

(B) is working correctly so as to verify the eligibility of the voter;



- (C) is correctly recording that a voter received a ballot; and
 - (D) has been shut down correctly.
- (18) The electronic poll book must include the following documentation:
- (A) Plainly worded, complete, and detailed instructions sufficient for a precinct election officer to set up, use, and shut down the electronic poll book.
 - (B) Training materials that:
 - (i) may be in written or video form; and
 - (ii) must be in a format suitable for use at a polling place, such as simple "how to" guides.
 - (C) Failsafe data recovery procedures for information included in the electronic poll book.
 - (D) Usability tests:
 - (i) that are conducted by the manufacturer of the electronic poll book or an independent testing facility using individuals who are representative of the general public;
 - (ii) that include the setting up, using, and shutting down of the electronic poll book; and
 - (iii) that report their results using industry standard reporting formats.
 - (E) A clear model of the electronic poll book system architecture and the following documentation:
 - (i) End user documentation.
 - (ii) System-level and administrator level documentation.
 - (iii) Developer documentation.
 - (F) Detailed information concerning:
 - (i) electronic poll book consumables; and
 - (ii) the vendor's supply chain for those consumables.
 - (G) Vendor internal quality assurance procedures and any internal or external test data and reports available to the vendor concerning the electronic poll book.
 - (H) Repair and maintenance policies for the electronic poll book.
 - (I) As of the date of the vendor's application for approval of the electronic poll book by the secretary of state as required by IC 3-11-18.1-12, the following:
 - (i) A list of customers who are using or have previously used the vendor's electronic poll book.
 - (ii) A description of any known anomalies involving the functioning of the electronic poll book, including how those anomalies were resolved.



(19) The electronic poll book and any hardware attached to the electronic poll book must be designed to prevent injury or damage to any individual or the hardware, including fire and electrical hazards.

(20) The electronic poll book must demonstrate that it correctly processes all activity regarding each voter registration record, including the use, alteration, storage, receipt, and transmittal of information that is part of the record. Compliance with this subdivision requires the mapping of the data life cycle of the voter registration record as processed by the electronic poll book.

(21) The electronic poll book must successfully perform in accordance with all representations concerning functionality, usability, security, accessibility, and sustainability made in the vendor's application for approval of the electronic poll book by the secretary of state as required by IC 3-11-18.1-12.

(22) The electronic poll book must have the capacity to transmit all information generated by the voter or poll clerk as part of the process of casting a ballot, including the time and date stamp indicating when the voter signed the electronic poll book, and the electronic signature of the voter, for retention on the dedicated private server approved by the county election board for the period required by Indiana and federal law.

(23) The electronic poll book must:

(A) permit a voter to check in and sign the electronic poll book even when there is a temporary interruption in connectivity to the Internet; and

(B) provide for the uploading of each signature so that the signature may be assigned to the voter's registration record.

(c) The county election board is responsible for the care and custody of all electronic poll books while not in use.

(d) The county election board is responsible for ensuring that all electronic poll books are dedicated devices to be used only for their intended purpose and for no other activity. Software that is not needed for the essential purpose of running the electronic poll book may not be installed on an electronic poll book.

SECTION 14. IC 3-11-13-22, AS AMENDED BY P.L.100-2018, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 22. (a) This section applies to:

(1) a ballot card voting system; and

(2) a voting system that includes features of a ballot card voting system and a direct record electronic voting system.

(b) The county election board of each county planning to use



automatic tabulating machines at the next election shall randomly select at least ten percent (10%) of the automatic tabulating machines for testing to ascertain that the machines will correctly count the votes cast for straight party tickets; for all candidates (including write-in candidates); and on all public questions. If an individual attending the public test requests that additional automatic tabulating machines be tested; then the county election board shall randomly select and test additional machines up to a maximum of fifteen percent (15%) of the machines that will be used at the next election.

(b) Not later than seventy-four (74) days before election day, for each county planning to use automatic tabulating machines at the next election, VSTOP shall provide each county election board with two (2) lists of unique identification numbers for the machines to be tested by the county. The number of machines selected in each list must be:

- (1) approved by the division; and**
- (2) not less than five percent (5%) of the machines in the county.**

(c) The county election board shall test the machines in the first list described in subsection (b) to ascertain that the machines will correctly count the votes cast for straight party tickets, for all candidates (including write-in candidates), and on all public questions. If an individual attending the public test requests that additional automatic tabulating machines be tested, then the county election board shall test machines from the second list described in subsection (b).

(d) If VSTOP does not provide the lists under subsection (b) not later than sixty (60) days before the election, the county election board shall establish and implement a procedure for random selection of not less than five percent (5%) of the machines in the county. The county election board shall then test the machines selected as described in subsection (c).

(e) Not later than seven (7) days after conducting the test under ~~this subsection;~~ subsection (c), the county election board shall certify to the election division that the test has been conducted in conformity with ~~this subsection;~~ subsection (c). The testing under ~~this subsection~~ subsection (c) must begin before absentee voting begins in the office of the circuit court clerk under IC 3-11-10-26.

(~~e~~) (f) Public notice of the time and place shall be given at least forty-eight (48) hours before the test. The notice shall be published once in accordance with IC 5-3-1-4.

(~~d~~) (g) If a county election board determines that:

SEA 570 — Concur



(1) a ballot:

(A) must be reprinted or corrected as provided by IC 3-11-2-16 because of the omission of a candidate, political party, or public question from the ballot; or

(B) is an absentee ballot that a voter is entitled to recast under IC 3-11-10-1.5 because the absentee ballot includes a candidate for election to office who:

(i) ceased to be a candidate; and

(ii) has been succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2; and

(2) ballots used in the test conducted under this section were not reprinted or corrected to remove the omission of a candidate, political party, or public question, or indicate the name of the successor candidate;

the county election board shall conduct an additional public test described in subsection ~~(b)~~ (c) using the reprinted or corrected ballots. Notice of the time and place of the additional test shall be given in accordance with IC 5-14-1.5, but publication of the notice in accordance with IC 5-3-1-4 is not required.

SECTION 15. IC 3-11-13-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 23. (a) The two (2) appointed members of the county election board shall observe the test required by section 22 of this chapter and certify the test as meeting the requirements of section 22 of this chapter.

(b) A copy of the certification of the test conducted under section ~~22(b)~~ 22 of this chapter shall be filed with the election returns.

(c) The test must be open to representatives of political parties, candidates, the media, and the public.

SECTION 16. IC 3-11-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. **(a) Except as provided in subsection (c),** a county election board may use an approved electronic voting system:

(1) in any election;

(2) in all or in some of the precincts within a political subdivision holding an election; and

(3) instead of or in combination with any other voting method.

(b) A county election board may use an electronic voting system which includes a voter verifiable paper audit trail if the voting system:

(1) otherwise complies with this chapter and IC 3-11-15; and

(2) is certified by the Indiana election commission.

(c) A county election board may not use an approved electronic



voting system purchased, leased, or otherwise acquired by the county after December 31, 2019, unless the system:

- (1) is certified by the Indiana election commission; and
- (2) includes a voter-verifiable paper audit trail.

This subsection does not prohibit a county election board from having maintenance performed on an electronic voting system purchased, leased, or otherwise acquired by the county before January 1, 2020.

SECTION 17. IC 3-11-14-24.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 24.5. (a) This section applies to voting on an electronic voting system that includes a voter verifiable paper audit trail.

(b) Except as provided in subsections (c) and (d), the voter may, after reviewing the paper audit trail, determine that an error has been made, and if so, the voter is entitled to one (1) opportunity to correct that error before the voter completes the casting of the voter's ballot.

(c) This subsection applies if an error is made because of a technology malfunction or malfunction of the voting system. Except as provided in subsection (d), the voter may, until the malfunction is corrected, review the paper audit trail to determine if an error has been made. After the malfunction has been corrected, the voter is entitled to one (1) opportunity to correct the error before the voter completes the casting of the voter's ballot.

(d) This subsection applies if the voter is a voter with disabilities. The voter may, after reviewing the paper audit trail, determine that an error has been made, and if so, the voter is entitled to as many opportunities as the voter needs to correct the error before the voter completes the casting of the voter's ballot.

SECTION 18. IC 3-11-14.5-1, AS AMENDED BY P.L.100-2018, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) The county election board of each county planning to use an electronic voting system at the next election shall randomly select at least three (3) precincts within the county and test the voting system units to be used at those precincts on election day. Each voting system shall be tested to ascertain that the system will correctly count the votes cast for straight party tickets; for all candidates (including write-in candidates); and on all public questions in that precinct. Not later than seventy-four (74) days before election day, for each county planning to use an electronic voting system at the next election, VSTOP shall provide each county



election board with two (2) lists of unique identification numbers for the machines to be tested by the county. The number of machines selected in each list must be:

- (1) approved by the division; and
- (2) not less than five percent (5%) of the machines in the county.

(b) The county election board shall test the machines in the first list described in subsection (a) to ascertain that the machines will correctly count the votes cast for straight party tickets, for all candidates (including write-in candidates), and on all public questions. If an individual attending the public test requests that additional electronic voting systems be tested, then the county election board shall test machines from the second list described in subsection (a).

(c) If VSTOP does not provide the lists under subsection (a) not later than sixty (60) days before the election, the county election board shall establish and implement a procedure for random selection of not less than five percent (5%) of the machines in the county. The county election board shall then test the machines selected as described in subsection (b).

~~(b)~~ (d) The testing under subsection ~~(a)~~ (b) must begin before absentee voting starts in the office of the circuit court clerk under IC 3-11-10-26.

~~(c)~~ (e) If a county election board determines that:

- (1) a ballot provided by an electronic voting system:
 - (A) must be corrected as provided by IC 3-11-2-16 because of the omission of a candidate, political party, or public question from the ballot; or
 - (B) is an absentee ballot that a voter is entitled to recast under IC 3-11-10-1.5 because the absentee ballot includes a candidate for election to office who:
 - (i) ceased to be a candidate; and
 - (ii) has been succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2; and

(2) ~~voting system units~~ machines used in the test conducted under this section did not contain a ballot that was reprinted or corrected to remove the omission of a candidate, political party, or public question, or indicate the name of the successor candidate; the county election board shall conduct an additional public test described in subsection ~~(a)~~ (b) using the ~~voting system units~~ machines previously tested and containing the reprinted or corrected ballots.

SECTION 19. IC 3-11-14.5-2, AS AMENDED BY P.L.169-2015,

SEA 570 — Concur



SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided by subsection (b), public notice of the time and place shall be given at least forty-eight (48) hours before the test. The notice shall be published once in accordance with IC 5-3-1-4.

(b) This subsection applies to an additional public test conducted under section ~~1(e)~~ **1(e)** of this chapter. Notice of the time and place of the additional test shall be given in accordance with IC 5-14-1.5, but publication of the notice in accordance with IC 5-3-1-4 is not required.

SECTION 20. IC 3-11-15-4, AS AMENDED BY P.L.120-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. Each application for certification of a voting system shall be accompanied by a fee of ~~one five thousand five hundred~~ **five thousand** dollars (~~\$1,500~~; **\$5,000**). All fees collected under this section shall be deposited with the treasurer of state in the voting system technical oversight program account established by IC 3-11-17-6.

SECTION 21. IC 3-11-15-7, AS AMENDED BY P.L.169-2015, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) Each application must be in writing, sworn to or affirmed by the applicant, under the penalties of perjury, on a form prescribed by the election division, and must satisfy the following requirements:

- (1) Provide the name and address of the vendor submitting the application.
- (2) Provide the telephone number of the vendor.
- (3) Provide the name, address, and telephone number of the individual representing the vendor regarding the application.
- (4) Provide the model name and number of the submitted voting system, stating the hardware, firmware, and software version numbers of the system.
- (5) State whether the voting system is a direct record electronic voting system or an optical scan ballot card voting system.
- (6) Provide a description of the voting system and its capabilities, including the following:
 - (A) Photographs.
 - (B) Engineering drawings.
 - (C) Technical documentation.
 - (D) Fail-safe and emergency backup information.
 - (E) Environmental requirements for storage, transportation, and operation.
- (7) Include an agreement to pay for the total costs of the examination.



- (8) Provide documentation of the escrow of the voting system's software, firmware, source codes, and executable images with an escrow agent approved by the election division.
- (9) Provide a functional description of any software components.
- (10) Provide schematics or flowcharts identifying software and data file relationships.
- (11) Describe the type of maintenance offered by the vendor.
- (12) Provide the names, addresses, and telephone numbers of the vendor's maintenance providers.
- (13) Provide a description of the training courses offered by the vendor for the voting system.
- (14) Provide user manuals, operator and system manuals, and problem solving manuals.
- (15) Provide a statement of the current and future interchangeability of all subcomponents of the voting system.
- (16) Provide documentation from all independent testing authorities that have examined the system.
- (17) Provide documentation from all election jurisdictions that have previously approved the system.
- (18) State that the vendor has complied with, and will continue to comply with, IC 3-11-15-45(b) following certification of the system.**
- ~~(18)~~ **(19)** Pay the application fee required under section 4 of this chapter.

(b) If an application does not include any of the applicable requirements listed in subsection (a), those requirements must be filed with the election division before the application may be considered by the commission.

SECTION 22. IC 3-11-15-13.3, AS AMENDED BY P.L.21-2016, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13.3. (a) To be approved by the commission for use in Indiana, a voting system must meet one (1) of the following:

- (1) The Voting System Standards adopted by the Federal Election Commission on April 30, 2002.
- (2) The Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005.
- (3) The Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission, as amended on March 31, 2015.

(b) **Except as provided in subsection (c)**, a county may continue to use an optical scan ballot card voting system or an electronic voting



system whose approval or certification expired on or before October 1, 2017, if the voting system:

- (1) was:
 - (A) approved by the commission for use in elections in Indiana before October 1, 2017; and
 - (B) purchased or leased by the county before October 1, 2017; and
- (2) otherwise complies with the applicable provisions of HAVA and this article.

However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.

(c) A county may not continue to use an electronic voting system after December 31, 2029, unless the:

- (1) system includes a voter verifiable paper audit trail; and**
- (2) certification of that system by the commission has not expired.**

~~(c)~~ **(d)** As provided by 52 U.S.C. 21081, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

~~(d)~~ **(e)** As provided by 52 U.S.C. 21081, an election board conducting an election satisfies the requirements of subsection ~~(c)~~ **(d)** if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

~~(e)~~ **(f)** If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system provided under subsection ~~(d)~~; **(e)**, the voter must be allowed to cast the voter's ballot on that voting system, whether or not the voter is an individual with disabilities.

SECTION 23. IC 3-11-15-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 45. **(a)** The vendor shall disclose the general features and capabilities of the access policy. The generic capabilities should include the following:

- (1) Software access controls.
- (2) Hardware access controls.
- (3) Effective password management.
- (4) The protection abilities of a particular operating system.
- (5) The general characteristics of supervisory access privileges.

(b) The vendor shall conduct a background check at least once

SEA 570 — Concur



each year on each individual:

(1) employed or contracted by the vendor; and

(2) who has access to the voting system;

to determine if the individual has been convicted of a felony. An individual described by this subsection who has been convicted of a felony may not have access to a voting system in the individual's capacity as an employee or contractor of the vendor.

SECTION 24. IC 3-11-15-46, AS AMENDED BY P.L.100-2018, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 46. (a) The county election board is responsible for defining the specific access policies applying to voting systems and electronic poll books in each election and for specifying when any variations from these policies are permitted.

(b) The county election board may adopt a resolution to establish a security protocol to secure the voting systems and electronic poll books used in each election conducted in the county. The security protocol must include an audit trail to detect unauthorized access to the voting systems and electronic poll books. A resolution adopted under this subsection must be adopted by the unanimous vote of the board's entire membership. If the board adopts a resolution under this subsection, the requirements of subsections (c) through (g) do not apply to the county **when a copy of the resolution is filed with the election division. A resolution adopted under this subsection is confidential.** The person or entity conducting the voting system technical oversight program and the election division shall be available to advise the county election board in the development of a security protocol under this subsection.

(c) The county election board shall place a uniquely numbered seal on each voting system and electronic poll book used in an election to secure the voting system and electronic poll book and permit post-election auditing. The form of the seal and information contained on the seal shall be prescribed by the election division and must make it impossible to access the sealed part of the unit without detection.

(d) The county election board shall place the seal described in subsection (c) on the voting system or electronic poll book immediately upon completion of the canvass of votes cast in an election in which the voting system or electronic poll book was made available for use at a precinct or vote center.

(e) The seal must remain in place except when the county election board orders unsealing of the voting system or electronic poll book in one (1) of the following cases when the board finds unsealing to be necessary:

(1) To conduct maintenance on the voting system or electronic

SEA 570 — Concur



poll book.

(2) To prepare the voting system or electronic poll book for use in the next election to be conducted by the county in which the voting system or electronic poll book will be made available.

(3) To install certified voting system hardware, firmware, or software on a voting system or certified upgrades on an electronic poll book.

(4) To conduct a public test of the voting system or electronic poll book required by state law.

(5) To conduct an audit authorized or required by this title.

(6) For the county election board to correct an error under IC 3-12-5-14.

(7) When ordered during a recount or contest proceeding under IC 3-12.

(f) The county election board shall reseal the voting system or electronic poll book immediately after the completion of the maintenance, installation, audit, correction, recount proceeding, or contest proceeding. When the county election board orders the unsealing of the voting system or electronic poll book to prepare for the use of the equipment in an election, the voting system or electronic poll book may remain unsealed until the canvassing is completed under subsection (d).

(g) The county election board shall document when each voting system or electronic poll book is sealed or unsealed under this section, identifying:

(1) the serial number of each voting system or electronic poll book that is sealed or unsealed;

(2) the date on which the sealing or unsealing occurred; and

(3) the individual who performed the sealing or unsealing.

SECTION 25. IC 3-11-15-49, AS AMENDED BY P.L.219-2013, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 49. (a) Except as provided in subsection (b) **or (c)**, before a vendor markets, sells, leases, installs, or permits the implementation of a voting system in Indiana, the commission must have approved the vendor's application for the approval of the voting system.

(b) A vendor may display or demonstrate a voting system that has not been approved by the commission for use in Indiana, if the vendor complies with all the following requirements:

(1) The display or demonstration occurs at a conference of election officials sponsored by:

(A) a state agency; or

SEA 570 — Concur



- (B) an association of circuit court clerks or voter registration officers.
- (2) The vendor files a notice with the election division at least seven (7) days before the scheduled starting date of a conference referred to in subdivision (1) setting forth the following:
 - (A) The name of the vendor and each vendor representative scheduled to display or demonstrate the voting system.
 - (B) The address and telephone number of the vendor.
 - (C) The model name and number of the voting system, including the hardware, firmware, and software version number for the voting system.
 - (D) The name and manufacturer of the voting system.
 - (E) The date and location of the display or demonstration of the voting system.
- (3) The vendor displays the voting system with a notice that:
 - (A) is in at least 16 point type size;
 - (B) is posted on the face of the voting system; and
 - (C) states that the voting system is "Not Approved for Use in Indiana".
- (4) The vendor ensures that each communication concerning the voting system that is available or made at a conference referred to in subdivision (1) includes a statement that the voting system is "Not Approved for Use in Indiana". A printed communication must include the statement in a type size that is at least as large as the largest type size used in the communication.

(c) Notwithstanding subsection (b), a vendor may display or demonstrate an electronic voting system which includes a voter verifiable paper audit trail if the vendor demonstrates the system only to a county which is currently using an electronic voting system provided by that vendor which does not include a voter verifiable paper audit trail.

SECTION 26. IC 3-11-16-4, AS AMENDED BY P.L.100-2018, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. The person or entity designated under this chapter to conduct the program shall do the following:

- (1) Develop and propose procedures and standards for the certification, acquisition, functioning, training, and security for voting systems **and electronic poll books** used to conduct elections in Indiana.
- (2) Compile and maintain an inventory of all voting systems and electronic poll books used to conduct elections in Indiana. The inventory must:



- (A) include unique serial numbers to identify each voting system unit and electronic poll book; and
 - (B) indicate the location where each voting system unit or electronic poll book is ordinarily stored.
- (3) Review reports concerning voting systems **and electronic poll books** prepared by independent laboratories and submitted by applicants for voting system **and electronic poll book** certification.
- (4) Recommend to the commission whether an application for voting system certification should be approved and, if so, whether the approval should be subject to any restrictions or conditions to ensure compliance with Indiana law.
- (5) Perform any additional testing of a voting system **or electronic poll book** necessary to determine whether the voting system **or electronic poll book** complies with state law.
- (6) Each year perform random audits of voting systems and electronic poll books used to conduct Indiana elections and prepare reports indicating whether the voting systems and electronic poll books have been certified, programmed, and used in compliance with Indiana law.
- (7) Review contracts, leases, purchase orders, and amendments to those documents concerning the acquisition or maintenance of voting systems **and electronic poll books**.
- (8) Assist with the development of quantity purchase agreements and other contracts for the lease or purchase of voting systems, electronic poll books, or devices to secure and monitor facilities where voting systems and electronic poll books are stored.
- (9) Determine when a voting system or electronic poll book used by a county has reached the end of the voting system's or electronic poll book's expected period of satisfactory performance, and notify each county using the voting system or the electronic poll book of this determination.**
- ~~(9)~~ **(10)** Develop and propose procedures and standards for the certification, acquisition, functioning, training, and security for electronic poll books used to conduct elections in Indiana.
- ~~(10)~~ **(11)** Perform any other duties related to the approval or use of voting systems or electronic poll books as provided in:
- (A) state law; or
 - (B) the contract described in section 3 of this chapter.

SECTION 27. IC 3-11-16-6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. The inventory of voting systems and**

SEA 570 — Concur



electronic poll books maintained by VSTOP under section 4 of this chapter is confidential.

SECTION 28. IC 3-11-17-7, AS ADDED BY P.L.100-2018, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. **(a)** A county election board shall file a report with the secretary of state not later than forty-eight (48) hours after receiving notice from a federal, state, or local government agency that:

- (1) a voting system or electronic poll book has been improperly obtained or altered in a manner that violates Indiana law; or
- (2) the data concerning the county maintained in the statewide voter registration system has been accessed or altered by a person in violation of Indiana law.

(b) A vendor of a voting system or electronic poll book shall file a report with the secretary of state and VSTOP not later than forty-eight (48) hours after discovering that an anomaly or problem has occurred in a voting system or electronic poll book due to technical or human error. However, if the anomaly or problem is discovered on election day, the vendor must file a report not later than three (3) hours after discovering the anomaly or problem.

(c) The report described in subsection (b) must state all of the following:

- (1) The nature of the anomaly or problem.**
- (2) The number of counties, precincts, or vote centers affected.**
- (3) The vendor's preliminary plan to resolve the anomaly or problem by preventing any impediment to voters casting ballots, or to the accuracy and integrity of the election process.**

SECTION 29. IC 3-11-18.1-12, AS AMENDED BY P.L.100-2018, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Notwithstanding section 1 of this chapter, this section applies to an electronic poll book to be used in:

- (1) a precinct polling place, office of the circuit court clerk, or a satellite office in accordance with IC 3-7-29-6; or
- (2) a vote center under this chapter.

(b) Notwithstanding any other law, the electronic poll list used at each vote center must:

- (1) comply with IC 3-11-8-10.3; and
- (2) be approved by the secretary of state in accordance with this section.

(c) A person who wishes to market, sell, lease, or provide an



electronic poll book for use in an election in Indiana must first file an application for certification with the election division on a form prescribed by the secretary of state. Except as provided in subsection ~~(h)~~; **(i)**, a person may not market, sell, lease, or provide an electronic poll book for use in an election in Indiana until the secretary of state has approved the application for certification under this section. **The application must state that the vendor has complied, and will continue to comply, with subsection (d) following certification of the electronic poll book. Each application for certification of an electronic poll book must be accompanied by a fee of one thousand five hundred dollars (\$1,500). All fees collected under this section shall be deposited with the treasurer of state in the voting system technical oversight program account established by IC 3-11-17-6.**

(d) The person seeking certification of an electronic poll book shall conduct a background check at least once each year on each individual employed or contracted by the vendor who has access to the electronic poll book to determine if the individual has been convicted of a felony. An individual described by this subsection who has been convicted of a felony may not have access to an electronic poll book in the individual's capacity as an employee or contractor of the vendor.

~~(d)~~ **(e) The secretary of state shall refer the application to the person or entity conducting the voting system technical oversight program (VSTOP) established by IC 3-11-16-2: VSTOP.**

~~(e)~~ **(f) The VSTOP shall examine the electronic poll book with its accompanying documentation and file a report with the secretary of state indicating all of the following:**

- (1) Whether the electronic poll book would operate in compliance with this title.**
- (2) Whether VSTOP has reviewed tests conducted by an approved voting system testing laboratory.**
- (3) Whether VSTOP has conducted a field test.**
- (4) Whether the electronic poll book complies with additional requirements for the electronic poll book application for certification and acceptance testing, as described in the Indiana Electronic Poll Book Certification Test Protocol approved by the secretary of state (as in effect January 1, 2019).**
- ~~(2)~~ **(5) Any recommendations regarding the acquisition or use of the electronic poll book. and**
- (6) Whether documentation of the escrow of the electronic poll book's software, firmware, source codes, and executable**



images with an escrow agent approved by the election division has been received by VSTOP.

(3) (7) Whether VSTOP recommends that the secretary of state approve the electronic poll book under this section, including any recommended restrictions that should be placed on the secretary of state's approval.

(f) (g) After the report required by subsection (e) (f) is filed, the secretary of state may approve the application for certification permitting the electronic poll book to be used in an election in Indiana.

(g) (h) A certification under this section expires on December 31 of the year following the date of its issuance, unless earlier revoked by the secretary of state upon a written finding of good cause for the revocation.

(h) (i) A person may display or demonstrate an electronic poll book that has not been certified under this section if the person complies with all the following requirements:

(1) The display or demonstration occurs at a conference of election officials sponsored by:

(A) a state agency; or

(B) an association of circuit court clerks or voter registration officers.

(2) The person files a notice with the election division at least seven (7) days before the scheduled starting date of a conference referred to in subdivision (1) setting forth the following:

(A) The name of the person and each representative scheduled to display or demonstrate the electronic poll book.

(B) The address and telephone number of the person.

(C) The model name of the electronic poll book.

(D) The name and manufacturer of the electronic poll book.

(E) The date and location of the display or demonstration of the electronic poll book.

(3) The person displays the electronic poll book with a notice that:

(A) is at least 16 point type size;

(B) is posted on the surface of the electronic poll book; and

(C) states that the electronic poll book is "Not Approved for Use in Indiana".

(4) The person ensures that each communication concerning the electronic poll book that is available or made at a conference referred to in subdivision (1) includes a statement that the electronic poll book is "Not Approved for Use in Indiana". A printed communication must include the statement in a type size that is at least as large as the largest type size used in the



communication.

SECTION 30. IC 3-11-18.1-14, AS AMENDED BY P.L.169-2015, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The precinct election board administering an election at a vote center shall keep the ballots cast in each precinct separate from the ballots cast in any other precinct whose election is administered at the vote center, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined and included on the statement required by IC 3-12-4-9.

(b) This subsection applies:

- (1) to a county described under section 12 of this chapter on and after the date absentee ballots are first transmitted to voters; **and**
- (2) to any anomaly or problem, whether due to a technical reason or due to human error with electronic poll book use.**

A person that receives a certification for an electronic poll book shall file not later than forty-eight (48) hours after the discovery of an anomaly or problem with the poll book a written report ~~describing the~~ **in accordance with IC 3-11-17-7. anomaly or problem with the** secretary of state:

SECTION 31. IC 5-14-3-4, AS AMENDED BY P.L.197-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.



- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.
- (10) Application information declared confidential by the Indiana economic development corporation under IC 5-28-16.
- (11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.
- (12) A Social Security number contained in the records of a public agency.
- (13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:
 - (A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).
 - (B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).
- (14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:
 - (A) The identity of any individual who makes a call to the fraud hotline.
 - (B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, a private university police department, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

- (1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. Law enforcement agencies or private university police departments may share investigatory records with a person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim, without the law enforcement agency or private university police



department losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

- (A) a public agency;
- (B) the state; or
- (C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between:

- (i) the Indiana economic development corporation;
- (ii) the ports of Indiana;
- (iii) the Indiana state department of agriculture;
- (iv) the Indiana finance authority;
- (v) an economic development commission;
- (vi) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or
- (vii) a governing body of a political subdivision;

with industrial, research, or commercial prospects, if the records are created while negotiations are in progress. However, this clause does not apply to records regarding research that is prohibited under IC 16-34.5-1-2 or any other law.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.



(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping, **voting system, voter registration system**, or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency



or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety



by exposing a vulnerability to terrorist attack. A record described under this subdivision includes the following:

- (A) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2.
- (B) Vulnerability assessments.
- (C) Risk planning documents.
- (D) Needs assessments.
- (E) Threat assessments.
- (F) Intelligence assessments.
- (G) Domestic preparedness strategies.
- (H) The location of community drinking water wells and surface water intakes.
- (I) The emergency contact information of emergency responders and volunteers.
- (J) Infrastructure records that disclose the configuration of critical systems such as **voting system and voter registration system critical infrastructure**, communication, electrical, ventilation, water, and wastewater systems.
- (K) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport:
 - (i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack.
 - (ii) The public agency must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law



enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval of (insert name of the public agency that owns, occupies, leases, or maintains the airport)".

(L) The home address, home telephone number, and emergency contact information for any:

- (i) emergency management worker (as defined in IC 10-14-3-3);
- (ii) public safety officer (as defined in IC 35-47-4.5-3);
- (iii) emergency medical responder (as defined in IC 16-18-2-109.8); or
- (iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

- (A) Telephone number.
- (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

- (A) contain personal information relating to:
 - (i) a correctional officer (as defined in IC 5-10-10-1.5);



- (ii) a law enforcement officer (as defined in IC 35-31.5-2-185);
 - (iii) a judge (as defined in IC 33-38-12-3);
 - (iv) the victim of a crime; or
 - (v) a family member of a correctional officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or
- (B) concern or could affect the security of a jail or correctional facility.
- (24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:
- (A) Name.
 - (B) Address.
 - (C) Telephone number.
 - (D) Electronic mail account address.
- (25) Criminal intelligence information.
- (26) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36:
- (A) Date of birth.
 - (B) Driver's license number.
 - (C) Taxpayer identification number.
 - (D) Employer identification number.
 - (E) Account number.
- (27) Except as provided in subdivision (19) and sections 5.1 and 5.2 of this chapter, a law enforcement recording. However, before disclosing the recording, the public agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.
- (28) Records relating to negotiations between a state educational institution and another entity concerning the establishment of a collaborative relationship or venture to advance the research, engagement, or educational mission of the state educational institution, if the records are created while negotiations are in progress. The terms of the final offer of public financial resources communicated by the state educational institution to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated. However, this



subdivision does not apply to records regarding research prohibited under IC 16-34.5-1-2 or any other law.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 32. IC 9-24-2.5-4, AS AMENDED BY P.L.128-2015, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) As required under 52 U.S.C. 20504(e)(1), the manager or designated license branch employee shall transmit **a copy an electronic version** of the completed voter registration portion of each application for a driver's license or an identification card for nondrivers issued under this article to the county voter registration office of the county in which the individual's residential address (as indicated on the application) is located.

(b) The voter registration application shall be transmitted to the county voter registration office in an electronic format and on an expedited basis (as defined by IC 3-5-2-23.2) using the computerized list established under IC 3-7-26.3. **Except in the case of applications submitted online under IC 3-7-26.7, the paper copy of the application shall be transmitted under subsection (a) to the county voter registration office not later than five (5) days after the application is accepted at the license branch.**

SEA 570 — Concur



SECTION 33. IC 9-24-2.5-6 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 6: (a) A manager or an employee may use any of the following methods to transmit paper copies of voter registration applications under section 4 of this chapter:

- (1) Hand delivery to the county voter registration office.
- (2) Delivery by the United States Postal Service, using first class mail.

(b) A county voter registration office:

- (1) shall process a voter registration application transmitted in electronic format from a license branch; and
- (2) is not required to receive the paper copy of a voter registration application from a license branch before:

- (A) approving or denying the application; and
- (B) mailing a notice of approval or denial to the applicant.

(c) After January 1, 2015, a county voter registration office shall scan an image of the paper copy of the registration application form into the computerized list established under IC 3-7-26.3.

SECTION 34. IC 9-24-2.5-7 IS REPEALED [EFFECTIVE JULY 1, 2019]. Sec. 7: If a manager or an employee transmits paper copies of registration applications by hand delivery under section 6(a)(1) of this chapter, the county voter registration office shall provide the manager or employee with a receipt for the forms. The receipt must state the date and time of delivery and the printed name and signature of the person who received the forms.

SECTION 35. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 570 — Concur

