

IC 3-11-4

Chapter 4. Eligibility and Application for Absentee Ballot

IC 3-11-4-0.5

When an absentee ballot is considered sent to a voter

Sec. 0.5. For purposes of this chapter, an absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:

- (1) sent by United States mail addressed to the voter;
- (2) transmitted by fax to a number provided by the voter; or
- (3) personally given to the voter.

As added by P.L.126-2002, SEC.46.

IC 3-11-4-1

Entitlement to vote by absentee ballot in clerk's office or satellite office; conditions

Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot. Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2) or at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12.5 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.223; P.L.7-1990, SEC.40; P.L.4-1991, SEC.67; P.L.3-1993, SEC.124; P.L.17-1993, SEC.10; P.L.1-1994, SEC.4; P.L.12-1995, SEC.76; P.L.3-1995, SEC.98; P.L.2-1996, SEC.140; P.L.126-2002, SEC.47; P.L.14-2004, SEC.101; P.L.66-2010, SEC.9.

IC 3-11-4-2

Application for absentee ballot; completion; execution; handling; affidavits

Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. Except as provided in subsection (b), the voter must sign the absentee ballot application.

(b) If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter. If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application and comply with subsection (d).

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

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

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

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

- (A) by mail; or
- (B) before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);

in accordance with IC 3-11-4-18, IC 3-11-10-24, or IC 3-11-10-25.

- (5) The voter identification number of the individual.

(e) If the county election board determines that an absentee ballot application does not comply with subsection (d), the board shall deny the application under section 17.5 of this chapter.

(f) A person who assists an individual in completing any information described in subsection (d) on an absentee ballot application shall state under the penalties for perjury the following information on the application:

- (1) The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person providing the assistance.
- (2) The date this assistance was provided.

(3) That the person providing the assistance has complied with Indiana laws governing the submission of absentee ballot applications.

(4) That the person has no knowledge or reason to believe that the individual submitting the application:

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

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

When providing assistance to an individual, the person must, in the individual's presence and with the individual's consent, provide the information listed in subsection (d) if the individual is unable to do so.

(g) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall indicate on the application the date the person received the application, and file the application with the appropriate county election board not later than:

(1) noon ten (10) days after the person receives the application;

or

(2) the deadline set by Indiana law for filing the application with the board;

whichever occurs first. The election division, a county election board, or a board of elections and registration shall forward an absentee ballot application to the county election board or board of elections and registration of the county where the individual resides.

(h) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company, or to the election division, a county election board, or a board of elections and registration. A person filing an absentee ballot application, other than the person's own absentee ballot application, must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

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

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

(3) Beginning January 1, 2015, the date (or dates) that the absentee ballot applications attached to the affidavit were received.

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

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

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

(5) A statement that the person is executing the affidavit under

the penalties of perjury.

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

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

As added by P.L.5-1986, SEC.7. Amended by P.L.38-1999, SEC.37; P.L.126-2002, SEC.48; P.L.103-2005, SEC.2; P.L.121-2012, SEC.1; P.L.194-2013, SEC.51; P.L.64-2014, SEC.41.

IC 3-11-4-2.1

False, fictitious, or fraudulent absentee ballot application; delivery to county election board; sworn statement; county election board action

Sec. 2.1. If a person receives a completed absentee ballot application that the person has reason to believe is materially false, fictitious, or fraudulent, the person shall deliver the application to the appropriate county election board not later than the deadline set forth in section 2 of this chapter, with a statement sworn or affirmed to under the penalties for perjury, setting forth the reasons why the person believes that the application may be materially false, fictitious, or fraudulent. The county election board shall act under IC 3-6-5-31 to determine if a violation of election law has occurred.
As added by P.L.194-2013, SEC.52.

IC 3-11-4-3

Deadline for receipt of absentee ballot applications; application received by election division

Sec. 3. (a) Except as provided in section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than the date the registration period resumes under IC 3-7-13-10 nor later than the following:

- (1) Noon on election day if the voter registers to vote under IC 3-7-36-14.
- (2) Noon on the day before election day if the voter:
 - (A) completes the application in the office of the circuit court clerk under IC 3-11-10-26; or
 - (B) is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by electronic mail or fax under section 6(h) of this chapter.
- (3) Noon on the day before election day if:
 - (A) the application is a mailed, transmitted by fax, or hand delivered application from a confined voter or voter caring for a confined person; and
 - (B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board under IC 3-11-10-25.
- (4) 11:59 p.m. on the eighth day before election day if the application:
 - (A) is a mailed application;

- (B) was transmitted by fax; or
- (C) was hand delivered;

from other voters who request to vote by mail under IC 3-11-10-24.

(b) An application for an absentee ballot received by the election division by the time and date specified by subsection (a)(2)(B), (a)(3), or (a)(4) is considered to have been timely received for purposes of processing by the county. The election division shall immediately transmit the application to the circuit court clerk, or the director of the board of elections and registration, of the county where the applicant resides. The election division is not required to complete or file the affidavit required under section 2(h) of this chapter whenever the election division transmits an application under this subsection.

As added by P.L.5-1986, SEC.7. Amended by P.L.14-1987, SEC.1; P.L.3-1987, SEC.224; P.L.10-1988, SEC.103; P.L.5-1989, SEC.50; P.L.7-1990, SEC.41; P.L.12-1992, SEC.8; P.L.8-1992, SEC.17; P.L.3-1997, SEC.273; P.L.38-1999, SEC.38; P.L.176-1999, SEC.67; P.L.126-2002, SEC.49; P.L.1-2003, SEC.3; P.L.14-2004, SEC.102; P.L.103-2005, SEC.3; P.L.66-2010, SEC.10; P.L.225-2011, SEC.54; P.L.219-2013, SEC.33.

IC 3-11-4-4

Manner of making application; furnished forms; fax and electronic mail applications

Sec. 4. (a) Applications may be made on application forms approved by the commission by any of the following means:

- (1) In person.
- (2) By fax transmission.
- (3) By mail (including United States mail or bonded courier).
- (4) By electronic mail with a digital image of the application and signature of the applicant, if transmitted by an absent uniformed services voter or an overseas voter acting under section 6 of this chapter.

(b) Application forms shall:

- (1) be furnished to a central committee of the county at the request of the central committee;
- (2) be:
 - (A) mailed;
 - (B) transmitted by fax; or
 - (C) transmitted by electronic mail with a digital image of the application;upon request, to a voter applying by mail, by telephone, by electronic mail, or by fax; and
- (3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) A county election board shall accept an application for an absentee ballot transmitted by fax even though the application is delivered to the county election board by a person other than the person submitting the application.

(d) When an application is received under subsection (a)(4), the circuit court clerk's office (or, in a county subject to IC 3-6-5.2 or IC 3-6-5.4, the office of the board of elections and registration) shall send an electronic mail receipt acknowledging receipt of the voter's application.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.225; P.L.5-1989, SEC.51; P.L.10-1989, SEC.6; P.L.8-1992, SEC.18; P.L.3-1993, SEC.125; P.L.2-1996, SEC.141; P.L.126-2002, SEC.50; P.L.120-2009, SEC.6; P.L.66-2010, SEC.11; P.L.219-2013, SEC.34.

IC 3-11-4-5

Repealed

(Repealed by P.L.8-1992, SEC.43.)

IC 3-11-4-5.1

Application form; prescribed by commission; contents

Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter that contains a standardized oath for those voters. The form of the application for an absentee ballot must do all of the following:

- (1) Require the applicant to swear to or affirm under the penalties of perjury that all of the information set forth on the application is true to the best of the applicant's knowledge and belief.
- (2) Require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the statements set forth in section 2(f) of this chapter.
- (3) Serve as a verified statement for a voter to indicate a change of name under IC 3-7-41. The form must require the applicant to indicate the applicant's previous name.
- (4) Set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

- (1) requests an absentee ballot; and
- (2) is eligible to vote in the precinct under IC 3-10-11 or IC 3-10-12;

must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

(d) The commission shall approve absentee ballot application forms that comply with this subsection and section 2(g) of this chapter and permit the applicant to indicate a change of name under subsection (b). The form prescribed by the commission must request that a voter who requests an absentee ballot:

- (1) provide the last four (4) digits of the voter's Social Security number; or
- (2) state that the voter does not have a Social Security number.

The form must indicate that the voter's compliance with this request

is optional.

(e) An application form submitted by a voter must:

- (1) comply with subsection (d); or
- (2) be an earlier approved version of an application form authorized for use on June 30, 2013.

(f) The form prescribed by the commission must include a statement that permits an applicant to indicate whether:

- (1) the applicant has been certified and is currently a participant in the address confidentiality program under IC 5-26.5-2; and
- (2) the applicant's legal residence is at the address set forth in the applicant's voter registration.

If the applicant confirms these statements, the applicant may indicate the address of the office of the attorney general as the address to which the absentee ballot is to be mailed.

As added by P.L.8-1992, SEC.19. Amended by P.L.17-1993, SEC.11; P.L.12-1995, SEC.77; P.L.2-1996, SEC.142; P.L.103-2005, SEC.4; P.L.1-2006, SEC.5; P.L.121-2012, SEC.2; P.L.219-2013, SEC.35; P.L.194-2013, SEC.53; P.L.64-2014, SEC.42.

IC 3-11-4-5.5

Election division designated as single office for voter registration and absentee ballot procedures for overseas and absent uniformed services voters

Sec. 5.5. In accordance with 42 U.S.C. 1973ff-1(b), but subject to section 5.7 of this chapter, the election division is designated as the single office in Indiana responsible for providing information regarding voter registration procedures under IC 3-7 and absentee ballot procedures under this chapter to be used by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in Indiana.

As added by P.L.209-2003, SEC.112. Amended by P.L.66-2010, SEC.12.

IC 3-11-4-5.7

Military and Overseas Voter Empowerment Act; delegation of authority to counties; designation of communications means; providing applications to voters; security and privacy of application requests; providing information to voters; free access system

Sec. 5.7. (a) As used in this section, "MOVE" refers to the Military and Overseas Voter Empowerment Act (Sections 577 through 589 of the National Defense Authorization Act for Fiscal Year 2010).

(b) Except as expressly provided by law, the state delegates its responsibilities to carry out the requirements of MOVE to each county election board (or board of elections and registration established under IC 3-6-5.2 or IC 3-6-5.4).

(c) To implement 42 U.S.C. 1973ff-1, electronic mail, fax, and web publication are designated as means of communication for an absent uniformed services voter or an overseas voter to request a

voter registration application and an absentee ballot application from the election division, a county election board, or a county voter registration office.

(d) An office described in subsection (c) that receives an electronic mail or fax from a voter shall provide an absentee ballot application or a voter registration application by electronic mail or fax to the voter if:

- (1) requested by the voter; and
- (2) the voter provides an electronic mail address or a fax number that permits the office to send an application not later than the end of the first business day after the office receives the communication from the voter.

If the electronic mail address or the fax number provided by the voter does not permit the office to send the voter an application not later than the end of the first business day after the office receives the communication, the office shall send the application to the voter by United States mail.

(e) As required by 42 U.S.C. 1973ff-1, to the extent practicable and permitted under state law (including IC 3-7 and IC 5-14-3), an office described in subsection (c) shall ensure that the procedures used to transmit an absentee ballot application or a voter registration application to an absent uniformed services voter or overseas voter protect the security and integrity of the application request processes, and that the privacy of the identity and other personal data of the voter who requests or is sent an application under subsection (d) is protected throughout the process of making the request or being sent the application.

(f) As required under 42 U.S.C. 1973ff-1, an office described in subsection (c) shall include information regarding the use of electronic mail, fax, and web publication with all informational and instructional materials that are sent with an absentee ballot application or an absentee ballot to an absent uniformed services voter or overseas voter.

(g) To implement Section 580 of MOVE, and in accordance with IC 3-7-26.3-3, the secretary of state, with the approval of the election division, shall develop a free access system that permits an absent uniformed services voter or overseas voter to determine whether the voter's absentee ballot has been received by the appropriate county election board (or board of elections and registration), regardless of the manner in which the absentee ballot was transmitted by the voter to the board. To the extent permitted by IC 3-7 and IC 5-14-3, the system must contain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the system.

As added by P.L.66-2010, SEC.13.

IC 3-11-4-6

Absent uniformed services voters, overseas voters, and address confidentiality voters; transmission of applications and ballots

Sec. 6. (a) This section applies, notwithstanding any other

provision of this title, to absentee ballot applications for the following:

- (1) An absent uniformed services voter.
- (2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).
- (3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section. A person may apply for an absentee ballot at any time after the registration period resumes under IC 3-7-13-10.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing either of the following:

- (1) A combined absentee registration form and absentee ballot request approved under 42 U.S.C. 1973ff(b)(2).
- (2) A form prescribed under IC 3-5-4-8 that identifies the applicant as an absent uniformed services voter or an overseas voter. A form prescribed under this subdivision must permit the applicant to designate whether the applicant wishes to receive the absentee ballot by electronic mail, fax, or United States mail.

(d) If the county election board receives an absentee ballot application from a person described by subsection (c), the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under section 15 of this chapter, unless the person has indicated under subsection (c) that the person wishes to receive the absentee ballot by electronic mail or fax.

(e) Whenever a voter files an application for an absentee ballot and indicates on the application that the voter is an absent uniformed services voter or an overseas voter, the application is an adequate application for an absentee ballot for an election conducted during the period that ends on December 31 following the date the application is filed, unless an absentee ballot mailed to the voter at the address set forth in the application is returned to the county election board during that period as undeliverable. The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter. If a voter entitled to receive an absentee ballot under this subsection subsequently files a voter registration application for a change of address within the same county or for a change of name or other information set forth in the voter's registration record, the previously approved absentee ballot application remains effective for the same period, unless the acknowledgment notice sent to the voter at that address is returned by the United States Postal Service due to an unknown or insufficient address in accordance with IC 3-7-33-5. If a voter entitled to receive an absentee ballot under this subsection subsequently files a voter registration application for an address that

is not located in the same county, the voter must file a new absentee ballot application under this section with the appropriate county election board.

(f) Whenever a voter described in subsection (a)(2) files an application for a primary election absentee ballot and indicates on the application that the voter is an address confidentiality program participant, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the period that ends on December 31 following the date the application is filed. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(g) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

- (1) To a law enforcement agency, upon request.
- (2) As directed by a court order.

(h) The county election board shall by fax or electronic mail transmit an absentee ballot to and receive an absentee ballot from an absent uniformed services voter or an overseas voter by electronic mail or fax at the request of the voter indicated in the application filed under this section. If the voter wants to submit absentee ballots by fax or electronic mail, the voter must separately sign and date a statement submitted with the electronic mail or the fax transmission that states substantively the following: "I understand that by faxing or e-mailing my voted ballot I am voluntarily waiving my right to a secret ballot."

(i) The county election board shall send confirmation to a voter described in subsection (h) that the voter's absentee ballot has been received as follows:

- (1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.
- (2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.
- (3) If:
 - (A) the voter does not provide a fax number or an electronic mail address; or

(B) the number or address provided does not permit the board to send the confirmation not later than the end of the first business day after the board receives the voter's absentee ballot;

the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

(j) Upon approval of the voter's absentee ballot application, a county election board shall transmit an absentee ballot to an absent uniformed services voter or an overseas voter by electronic mail under a program authorized and administered by the Federal Voting Assistance Program of the United States Department of Defense or directly to the voter at the voter's electronic mail address, if requested to do so by the voter. A voter described by this section may transmit the voted absentee ballot to a county election board by electronic mail. If a voter described in this section transmits the voted absentee ballot through the United States Department of Defense program, the ballot must be transmitted in accordance with the procedures established under that program. An electronic mail message transmitting a voted absentee ballot under this subsection must include a digital image of the voter's signature on the statement required under subsection (h).

As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.17; P.L.14-1987, SEC.3; P.L.10-1989, SEC.8; P.L.7-1990, SEC.43; P.L.8-1992, SEC.20; P.L.3-1997, SEC.274; P.L.273-2001, SEC.1; P.L.126-2002, SEC.51; P.L.1-2003, SEC.4; P.L.209-2003, SEC.113; P.L.198-2005, SEC.2; P.L.66-2010, SEC.14; P.L.225-2011, SEC.55; P.L.219-2013, SEC.36.

IC 3-11-4-6.1

Repealed

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

IC 3-11-4-7

Uniformed services voters, overseas voters, and address confidentiality voters; requirements for application

Sec. 7. (a) An absentee ballot application under section 6 of this chapter must be made on a standard form approved under 42 U.S.C. 1973ff(b) or on the form prescribed by the commission under section 5.1 of this chapter.

(b) An absentee ballot application under section 6 of this chapter from an:

- (1) absent uniformed services voter; or
- (2) address confidentiality program participant (as defined in IC 5-26.5-1-6);

must show that the voter or program participant is a resident otherwise qualified to vote in the precinct.

(c) An absentee ballot application under section 6 of this chapter

from an overseas voter must show that the overseas voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the United States.

As added by P.L.5-1986, SEC.7. Amended by P.L.14-1987, SEC.4; P.L.3-1989, SEC.10; P.L.8-1992, SEC.21; P.L.2-1996, SEC.143; P.L.273-2001, SEC.2; P.L.126-2002, SEC.52.

IC 3-11-4-8

Nonresident overseas voter; entitled to receive only federal ballots; precinct of voter

Sec. 8. (a) This section applies to an overseas voter described in IC 3-5-2-34.5(3).

(b) An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.

(c) A voter described in subsection (a) is considered to be a voter of the Indiana precinct where the voter registration office of the county where the person was domiciled before leaving the United States is located.

As added by P.L.5-1986, SEC.7. Amended by P.L.14-1987, SEC.5; P.L.10-1989, SEC.9; P.L.7-1990, SEC.44; P.L.8-1992, SEC.22; P.L.3-1997, SEC.275; P.L.126-2002, SEC.53; P.L.66-2003, SEC.36; P.L.198-2005, SEC.3.

IC 3-11-4-9

Repealed

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

IC 3-11-4-10

Estimate of number of ballots required

Sec. 10. Each circuit court clerk shall:

(1) not less than sixty (60) days before the date on which a general, primary, or municipal election is held; or

(2) not more than three (3) days after the date on which a special election is ordered;

estimate the number of absentee ballots that will be required in the county for the election.

As added by P.L.5-1986, SEC.7. Amended by P.L.10-1989, SEC.10; P.L.7-1990, SEC.45.

IC 3-11-4-11

Repealed

(Repealed by P.L.3-1993, SEC.282.)

IC 3-11-4-12

Repealed

(Repealed by P.L.66-2010, SEC.31.)

IC 3-11-4-12.5

Absent uniformed services voter or overseas voter; use of federal

write-in absentee ballot form; waiver of confidentiality not required

Sec. 12.5. (a) This section applies to an absent uniformed services voter or overseas voter.

(b) If a voter makes a timely application for and does not receive an absentee ballot from a county election board, the voter may use a federal write-in absentee ballot in the form prescribed by the Federal Voting Assistance Program of the United States Department of Defense and in accordance with the requirements set forth in 42 U.S.C. 1973ff-2 to cast a vote by mail, electronic mail, or fax for any of the following:

(1) Any candidate for nomination at a primary election.

(2) Any candidate, political party, or public question on a general election, municipal election, or special election ballot.

(c) The voluntary waiver of confidentiality under section 6(h) of this chapter is not required for a federal write-in absentee ballot.

(d) When a county election board receives a federal write-in absentee ballot, the board shall process the ballot as prescribed by IC 3-11-10-1(b).

As added by P.L.66-2010, SEC.16. Amended by P.L.219-2013, SEC.37.

IC 3-11-4-13

Repealed

(Repealed by P.L.66-2010, SEC.31.)

IC 3-11-4-14

Ballots other than those specified in IC 3-11-4-12.5; preparation and printing under direction of county election board

Sec. 14. (a) All absentee ballots other than those specified in section 12.5 of this chapter shall be prepared and printed under the direction of each county election board. After completing the estimate required by section 10 of this chapter and receiving all certifications from the election division required under IC 3-8 or IC 3-10, the county election board shall immediately proceed to prepare and have printed the ballots.

(b) Except as provided in subsection (c), ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(c) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

As added by P.L.5-1986, SEC.7. Amended by P.L.4-1991, SEC.70; P.L.66-2003, SEC.38; P.L.14-2004, SEC.104; P.L.66-2010, SEC.17.

IC 3-11-4-15

Ballots prepared and printed under direction of county election board; delivery to circuit court clerk

Sec. 15. The absentee ballots that are prepared and printed under

the direction of a county election board shall be delivered to the circuit court clerk (or the board acting under IC 3-6-5.2) at least fifty (50) days before a general, primary, special, or municipal election. *As added by P.L.5-1986, SEC.7. Amended by P.L.10-1989, SEC.11; P.L.3-1997, SEC.278; P.L.66-2003, SEC.39; P.L.66-2010, SEC.18.*

IC 3-11-4-16

Marking on label attached to package of ballots delivered to circuit court clerk; distribution of ballots

Sec. 16. Each package of absentee ballots delivered to a circuit court clerk shall be plainly marked, on an appropriate attached label, with the words: "This package contains _____ (giving number of ballots) absentee ballots." The clerk shall securely keep all ballots in the clerk's office and shall distribute them to applicants as provided in this chapter.

As added by P.L.5-1986, SEC.7.

IC 3-11-4-17

Filing of application received; recording of information in statewide voter registration list

Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record all of the following in the statewide voter registration list maintained under IC 3-7-26.3:

- (1) The voter's name.
- (2) The date the application is received.
- (3) The information provided by the voter under section 5.1(d) of this chapter.
- (4) The date the ballot is sent to the voter.
- (5) If mailed, the address to which the ballot is sent.
- (6) If transmitted by fax, the fax number to which the ballot is faxed.
- (7) The date the ballot is marked before the clerk or otherwise received from the voter.
- (8) The combined total number of absentee ballots sent by the county to absent uniformed services voters and overseas voters.
- (9) The total number of absentee ballots returned by voters described in subdivision (8) in time to be counted.
- (10) The total number of absentee ballots described in subdivision (8) that were counted in whole or in part.
- (11) Any other information that is necessary or advisable.

As added by P.L.5-1986, SEC.7. Amended by P.L.126-2002, SEC.54; P.L.198-2005, SEC.6; P.L.96-2012, SEC.3; P.L.121-2012, SEC.3; P.L.13-2013, SEC.3.

IC 3-11-4-17.5

Consideration of application; determinations; denial of application; casting provisional ballot; filing additional documentation; transfer of registrations

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 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 42 U.S.C. 1973ff-1(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.

As added by P.L.3-1997, SEC.279. Amended by P.L.209-2003, SEC.114; P.L.103-2005, SEC.5; P.L.164-2006, SEC.92; P.L.121-2012, SEC.4; P.L.194-2013, SEC.54; P.L.64-2014, SEC.43.

IC 3-11-4-17.7

Replacement official ballots

Sec. 17.7. (a) This section applies when a voter:

- (1) has been mailed the official ballot under this chapter; and
- (2) notifies the county election board that 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) As required under 42 U.S.C. 15481, 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.

(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.
As added by P.L.4-1996, SEC.67. Amended by P.L.209-2003, SEC.115.

IC 3-11-4-17.8

Official replacement ballots; procedures

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 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.

As added by P.L.3-1997, SEC.280.

IC 3-11-4-18

Mailing of ballots; additional documentation; voter education program

Sec. 18. (a) If a voter satisfies any of the qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(b) If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

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

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

whichever is later. If the election board determines that the county voter registration office has received an application from the applicant for registration at an address within the precinct indicated on the application, and the election board determines that this application is pending under IC 3-7-33, the ballot shall be mailed on the date the county voter registration office indicates under

IC 3-7-33-5(f) that the applicant is a registered voter.

(d) As required by 42 U.S.C. 15481, an election board shall establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple votes for a single office.

(e) As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(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.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.229; P.L.10-1988, SEC.105; P.L.4-1991, SEC.71; P.L.3-1993, SEC.128; P.L.3-1995, SEC.99; P.L.126-2002, SEC.55; P.L.209-2003, SEC.116; P.L.14-2004, SEC.105; P.L.103-2005, SEC.6; P.L.164-2006, SEC.93; P.L.66-2010, SEC.19; P.L.194-2013, SEC.55.

IC 3-11-4-18.5

Challenge absentee voter application; affidavit; referral to county election board

Sec. 18.5. (a) Upon receipt of an absentee ballot application, a member of the county election board or a member of an absentee voter board may file an affidavit with the county election board alleging that the application:

(1) was not submitted by a voter of the precinct;

(2) contains a false statement; or

(3) has not been executed or filed in accordance with Indiana or federal law.

(b) The affidavit must be in a form prescribed by the commission and state the following:

(1) The name and title of the individual filing the affidavit.

(2) A brief statement of the facts known or believed by the individual regarding why:

(A) the applicant is not a voter of the precinct;

(B) the application contains a false statement; or

(C) the application has not been executed or filed in accordance with Indiana or federal law.

(3) That the individual is executing the affidavit under the penalties of perjury.

(4) The penalties for perjury.

(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.

(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.

As added by P.L.103-2005, SEC.7.

IC 3-11-4-19

Necessity of circuit court clerk's official seal and signature and initials of members of absentee voter board on ballot mailed

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 must bear the seal, signature, and initials prescribed by IC 3-11-10-27.

As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.18; P.L.3-1987, SEC.230; P.L.263-2003, SEC.2.

IC 3-11-4-20

Envelope; enclosure of ballot; addressee

Sec. 20. An absentee ballot mailed under section 18 of this chapter shall be enclosed in an envelope, unsealed and stamped for return to the county election board by at least first class mail. One (1) side of the envelope must bear the name, official title, and post office address of the county election board. The pre-addressed, stamped envelope shall be furnished by the county election board.

As added by P.L.5-1986, SEC.7.

IC 3-11-4-21

Envelope; affidavit

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 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:

- (1) The name of the precinct and township (or ward and city or town).
- (2) 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.
- (3) The voter's complete residence address, including the name of the city or town and county.
- (4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.
- (5) 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;
 - (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 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.

(6) 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) The side of the envelope containing this affidavit must also set forth the penalties for perjury.

As added by P.L.5-1986, SEC.7. Amended by P.L.17-1993, SEC.12; P.L.12-1995, SEC.79; P.L.3-1995, SEC.100; P.L.3-1997, SEC.281; P.L.38-1999, SEC.40; P.L.209-2003, SEC.117; P.L.103-2005, SEC.8.

IC 3-11-4-22

Duties of circuit court clerk

Sec. 22. Each circuit court clerk shall do both of the following:

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

(2) Certify to each inspector, at the time that the absentee ballots are delivered, all the following:

(A) The number of absentee ballots sent to each absentee voter.

(B) The number of absentee ballots marked before the clerk.

(C) The names of the voters to whom the ballots were sent or who marked ballots in person.

As added by P.L.5-1986, SEC.7. Amended by P.L.126-2002, SEC.56.