

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1485

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-5-2-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 5.7. "Breach of peace" means breaking or disturbing the public peace, order, or decorum by any riotous, forcible, or unlawful proceedings, including fighting or tumultuous conduct.**

SECTION 2. IC 3-5-2-26.8, AS AMENDED BY P.L.114-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 26.8. "Lawful detention" has the meaning set forth in IC 35-31.5-2-186. "Law enforcement officer" means a:**

- (1) police officer;**
- (2) sheriff;**
- (3) constable;**
- (4) marshal; or**
- (5) deputy of any of those persons.**

SECTION 3. IC 3-5-2-26.9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 26.9. "Lawful detention" has the meaning set forth in IC 35-31.5-2-186.**

SECTION 4. IC 3-5-2-40.5, AS AMENDED BY P.L.76-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 40.5. (a) Except as provided in subsection (b), "proof of identification" refers to a document that satisfies all the**

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following:

- (1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.
- (2) The document shows a photograph of the individual to whom the document was issued.
- (3) The document includes an expiration date, and the document:
 - (A) is not expired; or
 - (B) expired after the date of the most recent general election.
- (4) The document was issued by the United States or the state of Indiana.

(b) Notwithstanding subsection (a)(3), a document issued by the United States Department of Defense, the United States Department of Veterans Affairs (or its predecessor, the Veterans Administration), a branch of the uniformed services, the Merchant Marine, ~~or~~ the Indiana National Guard, **or a Native American Indian tribe or band recognized by the United States government** that:

- (1) otherwise complies with the requirements of subsection (a); and
- (2) has no expiration date or states that the document has an indefinite expiration date;

is sufficient proof of identification for purposes of this title.

SECTION 5. IC 3-6-6-35, AS AMENDED BY P.L.114-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 35. (a) Each election sheriff shall do the following:

- (1) Except as provided in subsection (b), attend the polls in the appointed precinct from the opening of the polls to the conclusion of the count.
- (2) Preserve order at the polls.
- (3) Enforce the election laws under the direction of the precinct election board.
- (4) Upon direction from a ~~member of the precinct election board;~~ **officer**, request assistance from a law enforcement officer ~~(as defined in IC 35-31.5-2-185)~~ if a violation of law **or breach of the peace** within the polls ~~or within fifty (50) feet of the polls, or chute~~ has occurred or appears imminent.

(b) The sheriff may leave the polls for the purpose of obtaining assistance from a law enforcement officer under subsection (a)(4).

SECTION 6. IC 3-6-6-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 36. (a) As used in this section, "law enforcement officer" means a:

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- (1) police officer;
- (2) sheriff;
- (3) constable;
- (4) marshal; or
- (5) deputy of any of those persons.

(b) ~~Law enforcement officers of the state and of political subdivisions~~ **A law enforcement officer** may not come within ~~fifty~~ **(50)** feet of the polls **or the chute** except to do any of the following:

- (1) To serve process of court.
- (2) To vote.
- (3) To be present **and assist** when summoned by ~~the election sheriffs or a precinct judges~~ **election officer under section 35 of this chapter.**
- ~~(4) To serve as a pollbook holder.~~
- (5) (4)** To serve as an absentee ballot courier appointed under IC 3-11.5-4-22.

SECTION 7. IC 3-6-8-4, AS AMENDED BY P.L.169-2015, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. A watcher appointed under this chapter is entitled to do the following:

- (1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.
- (2) Inspect the paper ballot boxes, ballot card voting system, or electronic voting system before votes have been cast.
- (3) Inspect the work being done by any precinct election officer (except when a precinct election officer enters a confidential login or password to obtain access to an electronic poll book or to operate a voting system).
- (4) Enter, leave, and reenter the polls at any time on election day.
- (5) Witness the calling and recording of the votes and any other proceedings of the precinct election officers in the performance of official duties.
- (6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:
 - (A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate;
 - (B) the names of all candidates at a general, municipal, or special election and the number of votes cast for each candidate; or



(C) the vote cast for or against a public question.

(7) Accompany the inspector and judge in delivering the tabulation and election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation and election returns delivered to the county election board.

~~(9) Call upon the election sheriffs to make arrests.~~

SECTION 8. IC 3-6-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. **(a)** A watcher appointed under this chapter shall report any violation of the election laws that comes to the watcher's attention to: ~~the county grand jury~~

(1) the inspector of the precinct;

(2) the county election board; or

(3) the prosecuting attorney.

(b) A watcher may not object to any other precinct election officer concerning an alleged violation of election laws unless the watcher has the prior consent of the inspector.

(c) Upon the unanimous vote of the entire membership of the county election board, a watcher who violates subsection (b) or engages in other disruptive action in the polls may:

(1) be removed from the polls; and

(2) have the watcher's credentials revoked.

SECTION 9. IC 3-6-9-13, AS AMENDED BY P.L.169-2015, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 13. **(a)** A watcher appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer (except when a precinct election officer enters a confidential login or password to obtain access to an electronic poll book or to operate a voting system).

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the



precinct election board, providing:

- (A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(1) of this chapter; or
 - (B) the names of all candidates at a school board election and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(2) of this chapter.
- (7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.
- (8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.
- ~~(9) Call upon the election sheriffs to make arrests.~~

(b) A watcher appointed under this chapter shall report any violation of election laws that comes to the watcher's attention to any of the following:

- (1) The inspector of the precinct.**
- (2) The county election board.**
- (3) The prosecuting attorney.**

(c) A watcher may not object to any other precinct election officer concerning an alleged violation of election laws unless the watcher has the prior consent of the inspector.

(d) Upon the unanimous vote of the entire membership of the county election board, a watcher who violates subsection (c) or engages in other disruptive action in the polls may:

- (1) be removed from the polls; and**
- (2) have the watcher's credentials revoked.**

SECTION 10. IC 3-14-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) A state police department employee or a police officer or firefighter (including a special duty, auxiliary, or volunteer police officer or firefighter) of a political subdivision who recklessly:

- (1) solicits votes or campaign funds;
- (2) challenges voters; or
- (3) performs any other election related function;

while wearing any identifying insignia or article of clothing that is part of an official uniform or while on duty commits a Class A misdemeanor.

(b) This section does not prohibit any of the following:

- (1) A state police department civilian employee from voting while

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on duty.

(2) A police officer or firefighter from voting while wearing any part of an official uniform or while on duty.

(3) An individual described in subsection (a) from consenting to a photograph (or other visual depiction) of the individual wearing any part of the individual's official uniform appearing in an advertisement in support of a candidate or political party.

(4) ~~An individual from serving as a pollbook holder under IC 3-6-6-36.~~ **A law enforcement officer, upon request from a precinct election officer under IC 3-6-6-35, from entering the polls or chute to assist if a violation of law or breach of peace within the polls or the chute has occurred or appears imminent.**

(5) A police officer wearing any identifying insignia or article of clothing that is part of an official uniform or while on duty from serving as an absentee ballot courier appointed under IC 3-11.5-4-22.

SECTION 11. IC 3-14-3-16, AS AMENDED BY P.L.194-2013, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual. ~~The term includes~~ **means making a verbal statement, displaying a written statement indicating support or opposition to a candidate, political party, or public question appearing on the ballot, or** wearing or displaying an article of clothing, sign, button, or placard that states:

(1) the name of any political party or includes the name, picture, photograph, or other likeness of any **candidate or** currently elected federal, state, county, or local official; **or**

(2) **support for the approval or defeat of a public question.**

(b) The term does not include expressing support or opposition to a candidate or a political party or expressing approval or disapproval of a public question in:

(1) material mailed to a voter; or

(2) a telephone or an electronic communication with a voter.

~~(b)~~ (c) A person who knowingly does any electioneering:

(1) on election day within:

(A) the polls; or

(B) the chute;

(2) **before election day** within: ~~an area in~~



(A) the office of the circuit court clerk or a satellite office of the circuit court clerk established under IC 3-11-10-26.3 used by an absentee voter board to permit an individual to cast an absentee ballot; **or**

(B) **fifty (50) feet of the entrance to the office of the circuit court clerk or satellite office;** **or**

(3) except for a voter who is:

(A) the person's spouse;

(B) an incapacitated person (as defined in IC 29-3-1-7.5) for whom the person has been appointed the guardian (as defined in IC 29-3-1-6); **or**

(C) a member of the person's household;

in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law;

commits a Class A misdemeanor.

SECTION 12. IC 35-43-2-2, AS AMENDED BY P.L.276-2019, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) As used in this section, "authorized person" means a person authorized by an agricultural operation to act on behalf of the agricultural operation.

(b) A person who:

(1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the:

(A) property of an agricultural operation that is used for the production, processing, propagation, packaging, cultivation, harvesting, care, management, or storage of an animal, plant, or other agricultural product, including any pasturage or land used for timber management, without the consent of the owner



- of the agricultural operation or an authorized person; or
- (B) dwelling of another person without the person's consent;
- (6) knowingly or intentionally:
 - (A) travels by train without lawful authority or the railroad carrier's consent; and
 - (B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;
- (7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is:
 - (A) vacant real property (as defined in IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6); or
 - (B) designated by a municipality or county enforcement authority to be abandoned property or an abandoned structure (as defined in IC 36-7-36-1);
- (8) not having a contractual interest in the property, knowingly or intentionally enters the real property of an agricultural operation (as defined in IC 32-30-6-1) without the permission of the owner of the agricultural operation or an authorized person, and knowingly or intentionally engages in conduct that causes property damage to:
 - (A) the owner of or a person having a contractual interest in the agricultural operation;
 - (B) the operator of the agricultural operation; or
 - (C) a person having personal property located on the property of the agricultural operation; ~~or~~
- (9) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be a vacant property, an abandoned property, or an abandoned structure (as defined in IC 36-7-36-1); **or**
- (10) knowingly or intentionally enters or refuses to leave the polls (as defined in IC 3-5-2-39) or chute (as defined in IC 3-5-2-10) after having been prohibited from entering or asked to leave the polls or chute by a precinct election officer**



(as defined in IC 3-5-2-40.1) or a law enforcement officer acting on behalf of a precinct election officer;

commits criminal trespass, a Class A misdemeanor. However, the offense is a Level 6 felony if it is committed on a scientific research facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property. The offense is a Level 6 felony, for purposes of subdivision (8), if the property damage is more than seven hundred fifty dollars (\$750) and less than fifty thousand dollars (\$50,000). The offense is a Level 5 felony, for purposes of subdivision (8), if the property damage is at least fifty thousand dollars (\$50,000).

(c) A person has been denied entry under subsection (b)(1) when the person has been denied entry by means of:

- (1) personal communication, oral or written;
- (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public;
- (3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or
- (4) posting the property by placing identifying purple marks on trees or posts around the area where entry is denied.

(d) For the purposes of subsection (c)(4):

(1) each purple mark must be readily visible to any person approaching the property and must be placed:

(A) on a tree:

- (i) as a vertical line of at least eight (8) inches in length and with the bottom of the mark at least three (3) feet and not more than five (5) feet from the ground; and
- (ii) not more than one hundred (100) feet from the nearest other marked tree; or

(B) on a post:

- (i) with the mark covering at least the top two (2) inches of the post, and with the bottom of the mark at least three (3) feet and not more than five (5) feet six (6) inches from the ground; and
- (ii) not more than thirty-six (36) feet from the nearest other marked post; and

(2) before a purple mark that would be visible from both sides of a fence shared by different property owners or lessees may be applied, all of the owners or lessees of the properties must agree to post the properties with purple marks under subsection (c)(4).



(e) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (b)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.

(f) A person described in subsection (b)(7) violates subsection (b)(7) unless the person has the written permission of the owner, the owner's agent, an enforcement authority, or a court to come onto the property for purposes of performing maintenance, repair, or demolition.

(g) A person described in subsection (b)(9) violates subsection (b)(9) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

(h) Subsections (b), (c), and (g) do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board



while engaged in the performance of official duties.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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