

HOUSE BILL No. 1485

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5; IC 3-6; IC 3-11-8-4; IC 3-14.

Synopsis: Voting matters. Defines "breach of peace" and "law enforcement officer" for purposes of election law. Includes an identification document issued by a Native American Indian tribe or band for purposes of proof of identification. Provides for the carrying of firearms within the polls or chute. Permits a county to prohibit a precinct election officer from carrying a firearm within the polls or chute on election day as a condition of the appointment. Allows a political subdivision whose property is designated as a polling place location to adopt a policy prohibiting the carrying of firearms in the polls and the chute on election day. Specifies to whom a watcher must report any violation of election laws. Requires the prior consent of an inspector for a watcher to object to any other precinct election officer concerning an alleged violation of election laws and allows for the removal of the watcher and revocation of credentials for a violation. Amends the definition of "electioneering" and adds language prohibiting making verbal statements, displaying certain written statements, or the display of support for the approval or defeat of a public question and electioneering before election day in specified locations.

Effective: July 1, 2021.

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January 14, 2021, read first time and referred to Committee on Elections and Apportionment.



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 BILL No. 1485

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

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

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

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

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

15 SECTION 3. IC 3-5-2-26.9 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2021]: **Sec. 26.9. "Lawful detention" has the meaning set forth**



1 **in IC 35-31.5-2-186.**

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

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

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

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

27 is sufficient proof of identification for purposes of this title.

28 SECTION 5. IC 3-5-4-4.5 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2021]: Sec. 4.5. (a) **This section does not apply to a public**
31 **building designated as a polling location under IC 3-11-8-4 if the**
32 **political subdivision owning the property adopts a policy**
33 **prohibiting the carrying of firearms in the polls and chute on**
34 **election day. However, a policy may not prevent a law enforcement**
35 **officer from acting under IC 3-6-6-36.**

36 (b) **Except as otherwise expressly provided by state law, an**
37 **individual who is not otherwise prohibited from carrying a firearm**
38 **under federal or state law, including a law enforcement officer**
39 **acting under IC 3-6-6-36, may carry the firearm in the polls or**
40 **chute if the individual:**

- 41 (1) **is entitled to be present in the polls or chute; and**
42 (2) **otherwise complies with law.**



1 (c) **A county may require that a precinct election officer not**
 2 **carry a firearm within the polls or chute on election day as a**
 3 **condition of the appointment of an individual as a precinct election**
 4 **officer as an independent contractor.**

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

9 (1) Except as provided in subsection (b), attend the polls in the
 10 appointed precinct from the opening of the polls to the conclusion
 11 of the count.

12 (2) Preserve order at the polls.

13 (3) Enforce the election laws under the direction of the precinct
 14 election board.

15 (4) Upon direction from a ~~member of the precinct election board;~~
 16 **officer**, request assistance from a law enforcement officer ~~(as~~
 17 ~~defined in IC 35-31.5-2-185)~~ if a violation of law **or breach of**
 18 **the peace** within the polls ~~or within fifty (50) feet of the polls, or~~
 19 **chute** has occurred or appears imminent.

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

22 SECTION 7. IC 3-6-6-36 IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2021]: Sec. 36. (a) As used in this section, "law
 24 enforcement officer" means a:

25 (1) police officer;

26 (2) sheriff;

27 (3) constable;

28 (4) marshal; or

29 (5) deputy of any of those persons.

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

33 (1) To serve process of court.

34 (2) To vote.

35 (3) To be present when summoned by ~~the election sheriffs or a~~
 36 ~~precinct judges.~~ **election officer under section 35 of this**
 37 **chapter.**

38 ~~(4) To serve as a pollbook holder.~~

39 ~~(5)~~ **(4)** To serve as an absentee ballot courier appointed under
 40 IC 3-11.5-4-22.

41 SECTION 8. IC 3-6-8-4, AS AMENDED BY P.L.169-2015,
 42 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]: Sec. 4. A watcher appointed under this chapter is
 2 entitled to do the following:

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

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

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

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

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

16 (6) Receive a summary of the vote prepared under IC 3-12-2-15,
 17 IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the
 18 precinct election board, providing:

19 (A) the names of all candidates of the political party whose
 20 primary election is being observed by the watcher and the
 21 number of votes cast for each candidate;

22 (B) the names of all candidates at a general, municipal, or
 23 special election and the number of votes cast for each
 24 candidate; or

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

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

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

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

33 SECTION 9. IC 3-6-8-6 IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2021]: Sec. 6. **(a)** A watcher appointed under
 35 this chapter shall report any violation of the election laws that comes
 36 to the watcher's attention to: ~~the county grand jury~~

37 **(1) the inspector of the precinct;**

38 **(2) the county election board;** or

39 **(3) the prosecuting attorney.**

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



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

4 **(1) be removed from the polls; and**

5 **(2) have the watcher's credentials revoked.**

6 SECTION 10. IC 3-6-9-13, AS AMENDED BY P.L.169-2015,
 7 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2021]: Sec. 13. **(a)** A watcher appointed under this chapter is
 9 entitled to do the following:

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

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

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

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

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

23 (6) Receive a summary of the vote prepared under IC 3-12-2-15,
 24 IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the
 25 precinct election board, providing:

26 (A) the names of all candidates of the political party whose
 27 primary election is being observed by the watcher and the
 28 number of votes cast for each candidate if the watcher is
 29 appointed under section 1(a)(1) of this chapter; or

30 (B) the names of all candidates at a school board election and
 31 the number of votes cast for each candidate if the watcher is
 32 appointed under section 1(a)(2) of this chapter.

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

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

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

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



1 **(1) The inspector of the precinct.**

2 **(2) The county election board.**

3 **(3) The prosecuting attorney.**

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

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

10 **(1) be removed from the polls; and**

11 **(2) have the watcher's credentials revoked.**

12 SECTION 11. IC 3-11-8-4 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4. **(a)** School buildings,
 14 fire stations, and all other public buildings shall be made available
 15 without charge to a county for holding an election. The county may not
 16 be required to sign any agreement assuming liability as a precondition
 17 for use of the public building.

18 **(b) The political subdivision owning the public building may**
 19 **adopt a policy under IC 3-5-4-4.5 concerning the carrying of**
 20 **firearms in the polls and chutes on election day.**

21 SECTION 12. IC 3-14-1-6 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) A state police
 23 department employee or a police officer or firefighter (including a
 24 special duty, auxiliary, or volunteer police officer or firefighter) of a
 25 political subdivision who recklessly:

26 (1) solicits votes or campaign funds;

27 (2) challenges voters; or

28 (3) performs any other election related function;

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

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

33 (1) A state police department civilian employee from voting while
 34 on duty.

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

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

41 (4) ~~An individual from serving as a pollbook holder under~~
 42 ~~IC 3-6-6-36. A law enforcement officer, upon request from a~~



1 **precinct election officer under IC 3-6-6-35, from entering the**
 2 **polls or chute to assist if a violation of law or breach of peace**
 3 **within the polls or the chute has occurred or appears**
 4 **imminent.**

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

9 SECTION 13. IC 3-14-3-16, AS AMENDED BY P.L.194-2013,
 10 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2021]: Sec. 16. (a) As used in this section, "electioneering"
 12 includes expressing support or opposition to any candidate or political
 13 party or expressing approval or disapproval of any public question in
 14 any manner that could reasonably be expected to convey that support
 15 or opposition to another individual. The term includes **means making**
 16 **a verbal statement, displaying a written statement indicating**
 17 **support or opposition to a candidate, political party, or public**
 18 **question appearing on the ballot, or** wearing or displaying an article
 19 of clothing, sign, button, or placard that states:

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

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

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

27 (1) material mailed to a voter; or

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

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

30 (1) on election day within:

31 (A) the polls; or

32 (B) the chute;

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

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

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

40 (3) except for a voter who is:

41 (A) the person's spouse;

42 (B) an incapacitated person (as defined in IC 29-3-1-7.5) for



1 whom the person has been appointed the guardian (as defined
2 in IC 29-3-1-6); or
3 (C) a member of the person's household;
4 in the presence of a voter whom the person knows possesses an
5 absentee ballot provided to the voter in accordance with Indiana
6 law;
7 commits a Class A misdemeanor.

