

# HOUSE BILL No. 1477

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-11-10; IC 3-11.5-4; IC 3-14-4-10.

**Synopsis:** Processing absentee ballots. Provides that absentee ballots may be scanned, but not tabulated, before election day. Provides that a person who knowingly provides any other person with information concerning the number of votes a candidate received for an office or cast to approve or reject a public question on absentee ballots under the statute permitting scanning of absentee ballots before the closing of the polls commits a Level 6 felony. Provides that every county may use machines instead of absentee ballot counters to open absentee ballot envelopes. (Currently such use of machines is permitted only in Marion County.)

**Effective:** July 1, 2021.

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## Engleman, Clere

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

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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. 1477

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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 3-11-10-1, AS AMENDED BY P.L.157-2019,  
2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 1. (a) A voter voting by absentee ballot shall make  
4 and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter  
5 then shall, except as provided in subsection (b), do the following:  
6 (1) Mark the ballot in the presence of no other person.  
7 (2) Fold each ballot separately.  
8 (3) Fold each ballot so as to conceal the marking.  
9 (4) Enclose each ballot, with the seal and signature of the circuit  
10 court clerk on the outside, together with any unused ballot, in the  
11 envelope provided.  
12 (5) Securely seal the envelope.  
13 (6) Do one (1) of the following:  
14 (A) Deliver the envelope to the county election board, with not  
15 more than one (1) ballot per envelope, by United States mail  
16 or by a bonded courier company.  
17 (B) Deliver the envelope to the county election board in



- 1 person.
- 2 (C) Deliver the envelope to a member of the voter's household
- 3 or a person designated as the attorney in fact for the voter
- 4 under IC 30-5 for delivery to the county election board:
- 5 (i) in person;
- 6 (ii) by United States mail; or
- 7 (iii) by a bonded courier company.
- 8 (b) A voter permitted to transmit the voter's absentee ballots by fax
- 9 or electronic mail under IC 3-11-4-6 is not required to comply with
- 10 subsection (a). The individual designated by the circuit court clerk to
- 11 receive absentee ballots transmitted by fax or electronic mail shall do
- 12 the following upon receipt of an absentee ballot transmitted by fax:
- 13 (1) Note the receipt of the absentee ballot in the records of the
- 14 circuit court clerk as other absentee ballots received by the circuit
- 15 court clerk are noted.
- 16 (2) Fold each ballot received from the voter separately so as to
- 17 conceal the marking.
- 18 (3) Enclose each ballot in a blank absentee ballot envelope.
- 19 (4) Securely seal the envelope.
- 20 (5) Mark on the envelope: "Absentee Ballot Received by Fax or
- 21 Electronic Mail".
- 22 (6) Securely attach to the envelope the faxed affidavit received
- 23 with the voter's absentee ballots.
- 24 **If the county election board has adopted a resolution under**
- 25 **IC 3-11.5-4-6.5, the ballot may be scanned before the steps**
- 26 **described in subdivisions (2) through (6) are performed. If the**
- 27 **absentee ballot is scanned, that fact must be noted on the absentee**
- 28 **ballot envelope.**
- 29 (c) Except as otherwise provided in this title, absentee ballots
- 30 received by fax or electronic mail shall be handled and processed as
- 31 other absentee ballots received by the circuit court clerk are handled
- 32 and processed.
- 33 SECTION 2. IC 3-11-10-10.5 IS ADDED TO THE INDIANA
- 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 35 [EFFECTIVE JULY 1, 2021]: **Sec. 10.5. (a) This section applies if a**
- 36 **county election board has adopted a resolution under**
- 37 **IC 3-11.5-4-6.5 providing for scanning of absentee ballots before**
- 38 **election day.**
- 39 (b) Each day that absentee ballots are scanned, the data from
- 40 each scanner shall be downloaded onto a portable electronic
- 41 storage device and stored as provided in section 10 of this chapter.
- 42 A different storage device shall be used for each scanner for each



1 day the scanner is used. Each storage device must be labeled, either  
2 physically or electronically, with a unique identifying number.

3 (c) The county election board shall assign as many courier teams  
4 appointed under IC 3-11.5 as necessary each day during which  
5 absentee voting occurs at a satellite office to do the following:

6 (1) Deliver storage devices from the circuit court clerk's office  
7 to the absentee voter board at the satellite voting site for  
8 downloading data from the scanners after voting has  
9 concluded at the site.

10 (2) Return the storage device from the satellite voting site to  
11 the circuit court clerk's office after data has been  
12 downloaded.

13 (d) A log entry containing the following information must be  
14 completed for each storage device, whether it records data at the  
15 circuit court clerk's office or at a satellite office:

16 (1) The storage device's unique identifying number.

17 (2) The date and time the data was downloaded to the storage  
18 device.

19 (3) The initials of the individuals downloading the data.

20 (4) The time the storage device was secured under section 10  
21 of this chapter.

22 (5) If the storage device is delivered to a satellite voting  
23 location, the following information must be recorded in  
24 addition to the information recorded under subdivisions (1)  
25 through (4):

26 (A) The date and time the storage device was received by  
27 the couriers at the circuit court clerk's office.

28 (B) The date and time the storage device was delivered to  
29 the satellite office location.

30 (C) The date and time the storage device was returned to  
31 the circuit court clerk's office.

32 (D) The initials of each courier for each of the entries  
33 described in clauses (A) through (C).

34 SECTION 3. IC 3-11.5-4-6, AS AMENDED BY P.L.278-2019,  
35 SECTION 123, IS AMENDED TO READ AS FOLLOWS  
36 [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) **Subject to the other**  
37 **provisions of this chapter**, each circuit court clerk shall keep all  
38 accepted ballot envelopes securely sealed in the clerk's office until the  
39 ballot envelopes are opened by absentee ballot counters in accordance  
40 with this chapter.

41 (b) A county election board may not scan a voted absentee ballot  
42 card using an optical scan ballot scanner before election day.



1 SECTION 4. IC 3-11.5-4-6.5 IS ADDED TO THE INDIANA  
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 3 [EFFECTIVE JULY 1, 2021]: **Sec. 6.5. (a) This section applies to a**  
 4 **county that uses ballot cards that are scanned by an optical scan**  
 5 **ballot scanner for absentee ballots.**

6 **(b) The county election board may, by unanimous vote of the**  
 7 **entire membership of the board, adopt a resolution providing that**  
 8 **instead of keeping sealed absentee ballots in envelopes to be opened**  
 9 **on election day, either of the following may be done to begin the**  
 10 **processing of absentee ballots, subject to subsections (c) through**  
 11 **(e):**

12 **(1) Permit a voter to scan the voter's absentee ballot card**  
 13 **using an optical scan ballot scanner at the office of the circuit**  
 14 **court clerk or at a satellite office after the voter has completed**  
 15 **marking the voter's absentee ballot.**

16 **(2) Provide for the scanning of voted absentee ballot cards by**  
 17 **county election officials using an optical scan ballot scanner**  
 18 **before election day.**

19 **(c) Ballots scanned under subsection (b) may not be tabulated**  
 20 **before election day.**

21 **(d) A person may not use data obtained from ballot cards**  
 22 **scanned under subsection (b) to tabulate vote totals before election**  
 23 **day.**

24 **(e) The election division shall prescribe procedures to**  
 25 **implement scanning of absentee ballots as permitted by subsection**  
 26 **(b) so that all of the following result:**

27 **(1) The secure keeping of the scanned ballot cards after they**  
 28 **have been scanned.**

29 **(2) The protection, preservation, and nondisclosure of data**  
 30 **obtained from scanned ballot cards on a daily basis before**  
 31 **election day.**

32 **(3) The prevention of any person from obtaining any vote**  
 33 **totals from the scanned ballot cards or the data obtained from**  
 34 **the scanned ballot cards before election day.**

35 SECTION 5. IC 3-11.5-4-12.5, AS ADDED BY P.L.278-2019,  
 36 SECTION 125, IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2021]: **Sec. 12.5. (a) This section applies only**  
 38 **in a county containing a consolidated city.**

39 ~~(b)~~ **(a)** Notwithstanding section 12(b) of this chapter and subject to  
 40 subsection ~~(c)~~; **(b)**, absentee ballot envelopes may be opened by  
 41 machine instead of by the absentee ballot counters. For purposes of  
 42 certification of voting systems under this article, a machine, the only



1 function of which is the opening of envelopes, is not considered to be  
 2 a voting system or part of a voting system.

3 ~~(c)~~ **(b)** After making the applicable findings under section 12(b) of  
 4 this chapter, the absentee ballot counters shall take out each ballot  
 5 enclosed in an envelope opened under subsection ~~(b)~~ **(a)** without  
 6 unfolding or permitting a ballot to be unfolded or examined. The  
 7 absentee ballots shall then continue to be processed as provided under  
 8 section 12 and other applicable provisions of this chapter.

9 SECTION 6. IC 3-14-4-10, AS AMENDED BY P.L.158-2013,  
 10 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2021]: Sec. 10. A person who knowingly violates:

12 (1) ~~IC 3-11.5-5~~; **IC 3-11.5**;

13 ~~(2) IC 3-11.5-6~~;

14 ~~(3)~~ **(2)** IC 3-12-2-1;

15 ~~(4)~~ **(3)** IC 3-12-3-14; or

16 ~~(5)~~ **(4)** IC 3-12-3.5-7;

17 by providing any other person with information concerning the number  
 18 of votes a candidate received for an office or cast to approve or reject  
 19 a public question on absentee ballots counted under ~~IC 3-11.5-5~~;  
 20 ~~IC 3-11.5-6~~; **IC 3-11.5** or IC 3-12 before the closing of the polls  
 21 commits a Level 6 felony.

