

## **IC 3-10**

### **ARTICLE 10. PROVISIONS GOVERNING CERTAIN TYPES OF ELECTIONS**

#### **IC 3-10-1**

Chapter 1. Primary Elections in General Election Years

##### **IC 3-10-1-1**

###### **Application of chapter**

Sec. 1. This chapter applies only to primary elections that are held in general election years. It does not apply to municipal primary elections, which are covered by IC 3-10-6.

*As added by P.L.5-1986, SEC.6.*

##### **IC 3-10-1-2**

###### **Political parties required to hold primary election**

Sec. 2. Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall hold a primary election under this chapter to select nominees to be voted for at the general election.

*As added by P.L.5-1986, SEC.6.*

##### **IC 3-10-1-3**

###### **Date of primary**

Sec. 3. A primary election shall be held on the first Tuesday after the first Monday in May of each year in which a general election is held.

*As added by P.L.5-1986, SEC.6.*

##### **IC 3-10-1-4**

###### **Nomination of candidates for certain offices; voting on candidates, election of delegates, and election of precinct committeeman**

Sec. 4. (a) At a primary election each political party subject to section 2 of this chapter shall nominate its candidates for the following offices to be voted for at the general election:

- (1) United States Senator.
- (2) Governor.
- (3) United States Representative.
- (4) Legislative offices.
- (5) Local offices.

(b) In addition, each political party subject to section 2 of this chapter shall:

- (1) vote on candidates for nomination as President of the United States;
- (2) elect delegates from each county to the party's state convention; and
- (3) elect a precinct committeeman for each precinct in the county if precinct committeemen are to be elected under section 4.5 of this chapter.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.150; P.L.5-1989, SEC.33; P.L.9-1989, SEC.3.*

#### **IC 3-10-1-4.5**

##### **Election of precinct committeemen; exception**

Sec. 4.5. (a) Except as provided in section 4.6 of this chapter, precinct committeemen shall be elected on the first Tuesday after the first Monday in May 2006 and every four (4) years thereafter.

(b) The rules of a political party may specify whether a precinct committeeman elected under subsection (a) continues to serve as a precinct committeeman after the boundaries of the precinct are changed by a precinct establishment order issued under IC 3-11-1.5. *As added by P.L.5-1989, SEC.34 and P.L.9-1989, SEC.4. Amended by P.L.4-1996, SEC.36; P.L.122-2000, SEC.6; P.L.230-2005, SEC.33; P.L.164-2006, SEC.64.*

#### **IC 3-10-1-4.6**

##### **Election of precinct committeemen of Indiana Republican Party**

Sec. 4.6. (a) This section applies to precinct committeemen elected by the Indiana Republican Party.

(b) Precinct committeemen shall be elected on the first Tuesday after the first Monday in May 2008 and every four (4) years thereafter.

(c) The rules of the Indiana Republican Party may specify whether a precinct committeeman elected under subsection (a) continues to serve as a precinct committeeman after the boundaries of the precinct are changed by a precinct establishment order issued under IC 3-11-1.5.

*As added by P.L.164-2006, SEC.65.*

#### **IC 3-10-1-5**

##### **Noncontested races and unopposed candidates**

Sec. 5. (a) Whenever there is no contest in a political party for the nomination of a candidate or candidates for an office, the party may hold a primary election for that nomination. The appropriate election board shall certify the names of the candidates for each nomination for which there is no contest as though a primary election had been held. However, except as provided in subsections (b) through (c), if there is a contest in any party for any nomination, the name of each candidate of each party shall be placed on the primary election ballot, whether or not the candidate is opposed.

(b) If the only contest in a political party is for the election of a precinct committeeman or a delegate to the party's state convention, the names of unopposed candidates for nomination are not required to be placed on the primary election ballot unless the appointed member of the county election board affiliated with the political party files a written request that these names be printed on the primary election ballot.

(c) The names of unopposed candidates for election as a precinct committeeman or a delegate to a political party's state convention are

not required to be placed on the primary election ballot unless an appointed member of the county election board affiliated with the political party files a written request that these names be printed on the primary election ballot.

(d) If a party wants to conduct a primary under subsection (c), an appointed member of the county election board affiliated with the party must file a notice with the county election board not later than noon seven (7) days after the final date for filing a declaration of candidacy, stating that the party will hold a primary.

*As added by P.L.5-1986, SEC.6. Amended by P.L.10-1988, SEC.77; P.L.176-1999, SEC.55; P.L.9-2004, SEC.13.*

### **IC 3-10-1-6**

#### **Eligible voters**

Sec. 6. A voter may vote at a primary election:

- (1) if the voter, at the last general election, voted for a majority of the regular nominees of the political party holding the primary election; or
- (2) if the voter did not vote at the last general election, but intends to vote at the next general election for a majority of the regular nominees of the political party holding the primary election;

as long as the voter was registered as a voter at the last general election or has registered since then.

*As added by P.L.5-1986, SEC.6.*

### **IC 3-10-1-7**

#### **Repealed**

*(Repealed by P.L.164-2006, SEC.143.)*

### **IC 3-10-1-7.1**

#### **Copy of registration record and voter signatures; evidence of right to vote**

Sec. 7.1. (a) Each county election board shall furnish the inspector of each precinct for use on primary election day a certified copy under IC 3-7-29 of the list of all voters registered to vote in the precinct.

(b) The county voter registration office may also provide the inspector of each precinct in the county a certified photocopy of the signature on the affidavit or form of registration of each voter of the precinct for the comparison of signatures under section 24.6 of this chapter.

(c) If the name of a person offering to vote at the primary is in the registration record or listed in the certified copy prepared for the precinct, it is sufficient evidence of the person's right to vote unless the person is challenged.

*As added by P.L.209-2003, SEC.95. Amended by P.L.164-2006, SEC.66.*

### **IC 3-10-1-7.2**

**Proof of identification; exception; failure to produce; challenge; provisional ballot**

Sec. 7.2. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at a primary election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in a primary election, a precinct election officer shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22.1, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in a primary election.

*As added by P.L.109-2005, SEC.2. Amended by P.L.164-2006, SEC.67; P.L.53-2009, SEC.1.*

**IC 3-10-1-8**

**Voter name not on registration record or certified copy; certificate of error; casting provisional ballot**

Sec. 8. A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record of the precinct or on the certified copy of the registration record prepared under IC 3-7-29 may:

(1) vote if the county voter registration office provides a signed certificate of error; or

(2) cast a provisional ballot under IC 3-11.7, as provided by 42 U.S.C. 15482.

*As added by P.L.5-1986, SEC.6. Amended by P.L.5-1989, SEC.36; P.L.7-1990, SEC.34; P.L.12-1995, SEC.61; P.L.3-1995, SEC.82; P.L.209-2003, SEC.96; P.L.164-2006, SEC.68.*

**IC 3-10-1-9**

**Challenging voter**

Sec. 9. A voter in a precinct may challenge a voter or person who offers to vote at a primary election. The challenged person may not vote unless the challenged person:

(1) is registered;

(2) makes:

- (A) an oral or a written affirmation under IC 3-10-12; or
- (B) an affidavit:
  - (i) that the challenged person is a voter of the precinct; or
  - (ii) required under IC 3-10-11 if the voter declares that the voter is entitled to vote under IC 3-10-11; and
- (3) either:
  - (A) at the last general election voted for a majority of the regular nominees of the political party for whose candidates the challenged person proposes to vote in the primary election and intends to vote for the regular nominees of the political party at the next general election; or
  - (B) if the challenged person did not vote at the last general election, intends to vote at the next general election for a majority of the regular nominees of the political party holding the primary election.

*As added by P.L.5-1986, SEC.6. Amended by P.L.17-1993, SEC.9; P.L.12-1995, SEC.62.*

### **IC 3-10-1-10**

#### **Persons entitled to challenge voter**

Sec. 10. Only a voter who is a member of the political party for whose candidates a person is offering to vote at a primary election may challenge the person on the ground of party affiliation.

*As added by P.L.5-1986, SEC.6.*

### **IC 3-10-1-10.5**

#### **Challenged voter entitled to cast provisional ballot; exception**

Sec. 10.5. (a) This section does not apply to a voter who is challenged under section 10 of this chapter on the basis of party affiliation.

(b) In accordance with 42 U.S.C. 15482, a voter challenged under this chapter is entitled to cast a provisional ballot under IC 3-11.7 after executing the affidavit under section 9 of this chapter.

*As added by P.L.209-2003, SEC.97. Amended by P.L.164-2006, SEC.69.*

### **IC 3-10-1-11**

#### **Voting methods, supplies, and equipment**

Sec. 11. The voting methods, supplies, and equipment to be used at a primary election are the same as those prescribed by IC 3-11 as far as applicable and when consistent with this chapter.

*As added by P.L.5-1986, SEC.6.*

### **IC 3-10-1-12**

#### **Preparation and distribution of ballots**

Sec. 12. (a) In those precincts where ballot card voting systems are to be used, each county election board shall prepare and distribute separate primary ballots for each political party participating in a primary election at least equal in number to one hundred percent (100%) of the number of votes cast for the candidate

of the party who received the greatest number of votes cast in the precinct at the last general election.

(b) In those precincts where electronic voting systems are to be used, the board shall determine the number of ballots required to be printed and furnished to the precincts for emergency purposes only. *As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.151; P.L.230-2005, SEC.34.*

### **IC 3-10-1-13**

#### **Specifications for ballots**

Sec. 13. (a) The primary election paper ballots, ballot cards, and ballot labels of each political party must be of uniform size and of the same quality paper as the paper ballots, ballot cards, and ballot labels used at the general election.

(b) The paper ballots and ballot cards must be distinctively marked or be of a different color so that the ballots of each party are easily distinguishable.

(c) This subsection applies to all voting systems. All the candidates representing one (1) party shall be placed on one (1) ticket with the name of the party placed at the top or beginning of the ballot in the form prescribed by section 19 of this chapter.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.152; P.L.66-2003, SEC.28; P.L.58-2005, SEC.3.*

### **IC 3-10-1-14**

#### **Repealed**

*(Repealed by P.L.14-2004, SEC.194.)*

### **IC 3-10-1-14.1**

#### **Printing names on ballot**

Sec. 14.1. (a) All the candidates for each office who have qualified in the manner prescribed by IC 3-8 for placement on the primary election ballot shall be grouped together under the name of the office and printed in type with uniform capital letters, with uniform space between each name. At the head of each group where only one (1) candidate for each group is to be voted for, the words "vote for one (1) only" shall be printed. If more than one (1) candidate in a group is to be voted for, the number to be voted for shall be specified at the head of the group.

(b) This subsection does not apply to a candidate for a political party office. A candidate's given name and surname as set forth in the candidate's voter registration record shall be printed in full.

(c) In addition to the candidate's given name and surname, the candidate may use:

(1) initials; or

(2) a nickname by which the candidate is commonly known; if the candidate's choice of initials or nickname does not exceed twenty (20) characters. Any nickname used must appear in parentheses between the candidate's given name and the candidate's surname.

(d) A candidate may not use a designation such as a title or degree or a nickname that implies a title or degree.

(e) A candidate's name must be printed on the ballot exactly as the name appears on the candidate's certificate of nomination, petition of nomination, or declaration of candidacy.

*As added by P.L.14-2004, SEC.75.*

### **IC 3-10-1-15**

#### **Separate ticket for each political party; placement of names under office designation**

Sec. 15. (a) Each political party holding a primary election shall have a separate ticket, either in printed ballot form as prescribed by sections 13 and 14.1 of this chapter, or on separate ballot cards or ballot labels.

(b) Except as provided in subsection (c), the name of each candidate who has qualified under IC 3-8 shall be placed on the ballot under a designation of the office for which the person is a candidate.

(c) This subsection applies to an optical scan ballot card voting system that does not list the name of a candidate on the ballot card. The name of each candidate who has qualified under IC 3-8 shall be placed on the ballot and indicated by reference to a number printed on the optical scan ballot card.

(d) The name of a candidate may not appear on the ballot of more than one (1) party for the same office.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.153; P.L.14-2004, SEC.76; P.L.58-2005, SEC.4; P.L.164-2006, SEC.70.*

### **IC 3-10-1-16**

#### **Number of candidates for whom each person may vote**

Sec. 16. At a primary election a voter may vote for as many candidates for each office as there are persons to be elected to that office at the general election, except as provided in IC 33-33-49-13 for candidates for judge of the Marion superior court.

*As added by P.L.5-1986, SEC.6. Amended by P.L.16-1995, SEC.1; P.L.98-2004, SEC.33.*

### **IC 3-10-1-17**

#### **Colored ballot labels; party designation**

Sec. 17. Political parties may be distinguished in a primary election by the use of different color paper ballots, ballot cards, or ballot labels. The party name shall be placed before the list of candidates of the party.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.154; P.L.176-1999, SEC.57; P.L.58-2005, SEC.5.*

### **IC 3-10-1-18**

#### **Order of names on ballot; counties with population over 400,000 but less than 700,000**

Sec. 18. (a) Except as provided by subsection (b), the names of all candidates for each office who have qualified under IC 3-8 shall be arranged in alphabetical order by surnames under the designation of the office.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The names of all candidates for each office who have qualified under IC 3-8, except for a school board office, precinct committeeman, or state convention delegate, shall be arranged in random order by surnames under the designation of the office. The random order shall be determined using a lottery. The lottery held in accordance with this subsection shall be conducted in public by the county election board. The lottery shall be held not later than fifteen (15) days following the last day for a declaration of candidacy under IC 3-8-2-4. All candidates whose names are to be arranged by way of the lottery shall be notified at least five (5) days prior to the lottery of the time and place at which the lottery is to be held. Each candidate may have one (1) designated watcher, and each county political party may have one (1) designated watcher who shall be allowed to observe the lottery procedure.

(c) For paper ballots, the left margin of the ballot for each political party must show the name of the uppermost candidate printed to the right of the number 1, the next candidate number 2, the next candidate number 3, and so on, consecutively to the end of the ballot as prescribed in section 19 of this chapter. The same order shall be followed for the printing of ballot labels and their placement on the electronic voting system and for the printing of ballot cards.

(d) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). If there is insufficient room on a row to list each candidate of a political party, a second or subsequent row may be utilized. However, a second or subsequent row may not be utilized unless the first row, and all preceding rows, have been filled. *As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.155; P.L.7-1991, SEC.2; P.L.12-1992, SEC.6; P.L.1-1993, SEC.6; P.L.5-1994, SEC.1; P.L.221-2005, SEC.28.*

### **IC 3-10-1-19**

#### **Form of ballot and public questions; order of offices and public questions on ballot**

Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

#### **OFFICIAL PRIMARY BALLOT**

\_\_\_\_\_ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For



optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

(1) AB \_\_\_\_\_

(2) CD \_\_\_\_\_

(3) EF \_\_\_\_\_

(4) GH \_\_\_\_\_

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner.

(I) County council member.

(5) Township offices:

(A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).

(B) Township trustee.

(C) Township board member.

(D) Judge of the small claims court.

(E) Constable of the small claims court.

- (6) City offices:
  - (A) Mayor.
  - (B) Clerk or clerk-treasurer.
  - (C) Judge of the city court.
  - (D) City-county council member or common council member.
- (7) Town offices:
  - (A) Clerk-treasurer.
  - (B) Judge of the town court.
  - (C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

- (1) Precinct committeeman.
- (2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

- (1) School board offices to be elected at the primary election.
- (2) Other local offices to be elected at the primary election.
- (3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:

- (1) in a separate column on the ballot if voting is by paper ballot;
- (2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
- (3) either:
  - (A) on a separate screen for each office or public question; or
  - (B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;
 if voting is by an electronic voting system.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,  
if required by law.)

"Shall (insert public question)?"

YES

NO

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.156; P.L.8-1989, SEC.5; P.L.4-1991, SEC.51; P.L.3-1997, SEC.216; P.L.98-2004, SEC.34; P.L.58-2005, SEC.6; P.L.221-2005, SEC.29; P.L.164-2006, SEC.71; P.L.146-2008, SEC.4.*

### **IC 3-10-1-19.2**

#### **Order of districts and candidates on ballot**

Sec. 19.2. (a) Whenever candidates are to be nominated for an office that includes more than one (1) district, the districts shall be

placed on the ballot in alphabetical or numerical order, according to the designation given to the district.

(b) Whenever candidates are to be nominated for an office that includes both an at-large member and a member representing a district, the candidates seeking nomination as an at-large member shall be placed on the ballot before candidates seeking nomination to represent a district.

(c) This subsection applies to a school board office or political office to be elected at the primary election ballot. Candidates for a school board office or a political party office shall be placed on the ballot in accordance with the rules applicable to candidates for nomination to an office under subsections (a) and (b).

*As added by P.L.4-1996, SEC.37.*

### **IC 3-10-1-19.5**

#### **Alternative order of county offices**

Sec. 19.5. Notwithstanding section 19 of this chapter, the county election board may alter the prescribed ballot order to place the names of the candidates for the following offices before the names of the candidates for county judicial offices:

- (1) Prosecuting attorney.
- (2) Clerk of the circuit court.

(3) The county offices listed in section 19(b)(4) of this chapter.

*As added by P.L.4-1991, SEC.52. Amended by P.L.1-2009, SEC.2.*

### **IC 3-10-1-19.7**

#### **Certain information not required on ballot**

Sec. 19.7. The ballot for a primary election is not required to contain the information set forth under IC 3-11-2-10, IC 3-11-13-11, or IC 3-11-14-3.5 concerning:

- (1) write-in voting; or
- (2) independent candidates or independent tickets (described in IC 3-11-2-6);

except when an office for which write-in candidates or independent candidates or independent tickets (described in IC 3-11-2-6) are permitted is elected at the same time as the primary election.

*As added by P.L.3-1995, SEC.84. Amended by P.L.58-2005, SEC.7.*

### **IC 3-10-1-20**

#### **Repealed**

*(Repealed by P.L.3-1995, SEC.156.)*

### **IC 3-10-1-21**

#### **Sample ballots**

Sec. 21. The official sample ballots for a primary election shall be printed from the first or official form of ballot only.

*As added by P.L.5-1986, SEC.6.*

### **IC 3-10-1-22**

#### **Repealed**

*(Repealed by P.L.3-1987, SEC.570.)*

### **IC 3-10-1-23**

#### **Voting systems in county having a city**

Sec. 23. In a primary election in a county having a city, ballot card voting systems and electronic voting systems shall be employed as available and adaptable and shall be supplemented by paper ballots as necessary. However, this section does not require the purchase of ballot card voting systems or electronic voting systems for a primary election.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.157; P.L.221-2005, SEC.30.*

### **IC 3-10-1-24**

#### **Voter to give information; signing poll list**

Sec. 24. (a) A voter who desires to vote must give the voter's name and political party to the poll clerks of the precinct on primary election day. The poll clerks shall require the voter to write the following on the poll list:

- (1) The voter's name.
- (2) Except as provided in subsection (d), the voter's current residence address.
- (3) The name of the voter's party.

(b) The poll clerks shall:

- (1) ask the voter to provide or update the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(c) If the voter is unable to sign the voter's name, the voter must sign the poll list by mark, which must be witnessed by one (1) of the poll clerks or assistant poll clerks acting under IC 3-6-6, who shall place the poll clerk's or assistant poll clerk's initials after or under the mark.

(d) Each line on a poll list sheet provided to take a voter's current residence address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.158; P.L.5-1989, SEC.37; P.L.199-2001, SEC.18; P.L.209-2003, SEC.98; P.L.2-2004, SEC.1; P.L.164-2006, SEC.72.*

### **IC 3-10-1-24.5**

#### **Repealed**

*(Repealed by P.L.164-2006, SEC.143.)*

### **IC 3-10-1-24.6**

### **Voter identity check; comparison of signatures**

Sec. 24.6. (a) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7.1 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote.

(b) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21 or if the voter executes a challenged voter's affidavit under IC 3-11-8-22.1, the voter may then vote.

*As added by P.L.209-2003, SEC.100. Amended by P.L.164-2006, SEC.73.*

### **IC 3-10-1-25**

#### **Paper ballots or ballot card system; procedures**

Sec. 25. (a) If paper ballots are used in a precinct, one (1) of the poll clerks or assistant poll clerks shall deliver to a voter one (1) of the voter's political party ballots and a pencil after the voter signs the poll list. The voter shall take the ballot and pencil into an election booth and mark the ballot within the time provided under IC 3-11-11-10.5.

(b) If a ballot card voting system is used in a precinct, one (1) of the poll clerks or assistant poll clerks shall deliver to a voter one (1) of the voter's political party ballot cards and instructions on how to operate the ballot card system as described in IC 3-11-13-29 and IC 3-11-13-30. The voter shall take the ballot card into the voting booth and mark the ballot within the time provided under IC 3-11-13-32.5.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.160; P.L.5-1989, SEC.39.*

### **IC 3-10-1-26**

#### **Paper ballots; folding; delivery to inspector**

Sec. 26. (a) This section applies only to paper ballots.

(b) After marking a paper ballot, a voter shall fold each ballot separately in a manner that its face will be concealed and the initials of the poll clerks or assistant poll clerks seen.

(c) After leaving the booth, a voter shall return the pencil to a poll clerk or assistant poll clerk and display the initials on each ballot to the inspector.

(d) If a voter offers to vote a ballot folded so that it does not disclose the initials of the poll clerks or assistant poll clerks while also not disclosing the face of the ballot, the precinct election board shall direct the voter to return to the booth and fold the ballot properly.

(e) After properly displaying the initials on the ballot, the voter then shall:

- (1) deposit the ballot in the ballot box; or
- (2) at the voter's option return the ballot to the inspector, who shall deposit it in the ballot box.

(f) The poll clerk or assistant poll clerk shall then place a voting mark opposite the voter's name on the poll list. The voter then shall leave the polls.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.161; P.L.58-2005, SEC.8.*

### **IC 3-10-1-27**

#### **Party identification card receipt; voting time limits**

Sec. 27. If electronic voting systems are used in a precinct, one (1) of the poll clerks shall give a printed political party identification card to a voter after the voter signs the poll list. Before entering the voting booth, the voter must give the party identification card to a judge, and the judge shall set or have the electronic voting system set to allow the voter to vote only for the candidates of the voter's party. After the system is set, the voter may register a vote upon it within the time provided under IC 3-11-14-26.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.162; P.L.221-2005, SEC.31.*

### **IC 3-10-1-28**

#### **Depositing and counting party identification cards**

Sec. 28. After setting the electronic voting system, the judge shall immediately deposit the political party identification card in a sealed container provided for that purpose. After the polls have closed, all party identification cards shall be counted and compared with the total number of votes cast in the election. All party identification cards must be of durable quality and the same color irrespective of the party that is designated.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.163; P.L.221-2005, SEC.32.*

### **IC 3-10-1-28.5**

#### **Ballot card voting system; procedures**

Sec. 28.5. (a) If a ballot card voting system is used in a precinct, after a voter has marked a ballot card the voter shall place it inside the envelope provided for this purpose and return it to the judge.

(b) The judge shall remove the stub from the ballot card. This subsection does not apply to an optical scan voting system.

(c) The judge shall then offer to return the envelope with the ballot card inside to the voter. The voter shall:

- (1) accept the envelope and deposit it with the ballot card inside into the ballot box; or
- (2) decline the envelope and require the judge to deposit it in the ballot box.

(d) The voter then shall leave the polls.

*As added by P.L.3-1987, SEC.164. Amended by P.L.38-1999, SEC.32; P.L.176-1999, SEC.58; P.L.239-2001, SEC.6.*

### **IC 3-10-1-29**

#### **Canvass of votes**

Sec. 29. The canvass of votes cast in a primary election shall, as far as applicable, be made in the same manner and by the same officers as the canvass at a general election. The tally sheet upon which the count has been entered shall be included in the returns of the election. Each precinct election board shall, on blanks provided for that purpose, make full and accurate returns of the votes cast for each candidate and on each public question unless votes were cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The board shall set forth in the return, opposite the name of each candidate and public question, the number of votes cast for the candidate and for or against each public question. The tabular statement must contain the following information, with the names of candidates and public questions arranged in the order in which they appear upon the official ballot:

- (1) The name of the precinct.
- (2) The name of the township (or ward).
- (3) The name of the county.
- (4) The name of the party of the candidates for Representative in Congress.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.165; P.L.10-1988, SEC.78; P.L.1-1993, SEC.7; P.L.3-1995, SEC.85.*

### **IC 3-10-1-30**

#### **Mutilated and unvoted ballots or ballot cards; counting, sealing and labeling**

Sec. 30. (a) At the close of the polls and before counting the votes, each precinct election board shall count all mutilated and unvoted paper ballots and ballot cards of each political party, place them in separate bags, and seal them. The number of unvoted ballots shall be marked on the outside of the bags.

(b) If a ballot card voting system was used in a precinct, the precinct election board shall comply with IC 3-12-3-2.

(c) At the close of the count the board shall place all voted paper ballots of each party in separate bags, sealed and properly labeled, showing the number of paper ballots they contain and the number voted but not counted.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.166.*

### **IC 3-10-1-31**

#### **Applicability; delivery of ballots; election materials; preservation; unsealing poll lists for addition, cancellation, or transfer of registration; destruction of ballots**

Sec. 31. (a) This section applies to election materials for elections held before January 1, 2004.

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together

with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31, the circuit court clerk shall carefully preserve the ballots and other material and keep all seals intact for twenty-two (22) months, as required by 42 U.S.C. 1974, after which they may be destroyed unless:

- (1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) This subsection applies before January 1, 2006. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) adding the registration of a voter under IC 3-7-48-8; or
- (4) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (c).

(e) This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; or
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (c).

(f) After the expiration of the period described in subsection (c), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.167; P.L.10-1988, SEC.79; P.L.3-1993, SEC.93; P.L.12-1995, SEC.64;*



*P.L.4-1996, SEC.38; P.L.199-2001, SEC.19; P.L.66-2003, SEC.29; P.L.209-2003, SEC.101; P.L.97-2004, SEC.4; P.L.14-2004, SEC.77.*

### **IC 3-10-1-31.1**

#### **Applicability; delivery, retention, and disposal of election materials; use of poll lists to update voter registration record; confidentiality of materials**

Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41;
- (4) adding the registration of a voter under IC 3-7-48-8; or
- (5) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be

preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(f) This subsection does not apply to ballots. Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

(g) After the expiration of the period described in subsection (c) or (d), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

*As added by P.L.14-2004, SEC.78. Amended by P.L.230-2005, SEC.35.*

### **IC 3-10-1-32**

#### **Returns**

Sec. 32. Primary election returns must contain the whole number of votes cast for:

- (1) each candidate of each political party;
- (2) each public question voted on at the primary election; and
- (3) each candidate for election to a school board office or political party office.

*As added by P.L.5-1986, SEC.6. Amended by P.L.10-1988, SEC.80.*

### **IC 3-10-1-33**

#### **Duplicate copy of returns; transmission to election division**

Sec. 33. (a) The county election board shall also make an additional duplicate showing the votes cast for each candidate required to file a declaration of candidacy with the election division under IC 3-8-2.

(b) The circuit court clerk shall, not later than noon on the second Monday following the primary election, send to the election division by certified mail or hand deliver to the election division one (1) complete copy of all returns for these candidates.

(c) The circuit court clerk may send the document described in subsection (b) using the computerized list established under IC 3-7-26.3. A document sent under this subsection complies with any requirement for the document to be certified or sealed.

*As added by P.L.5-1986, SEC.6. Amended by P.L.3-1987, SEC.168; P.L.3-1993, SEC.94; P.L.3-1997, SEC.217; P.L.176-1999, SEC.59; P.L.221-2005, SEC.33; P.L.164-2006, SEC.74.*

### **IC 3-10-1-34**

#### **Canvass of votes by election division**

Sec. 34. The election division, not later than noon:

- (1) on the date for correcting an error under IC 3-12-5-14; or

(2) seven (7) days after receipt of the final recount certificate transmitted under IC 3-12-6-31 or IC 3-12-11-18; whichever occurs later, shall canvass the votes cast for candidates required to file a declaration of candidacy with the election division under IC 3-8-2 and tabulate the result as provided in IC 3-12.  
*As added by P.L.5-1986, SEC.6. Amended by P.L.10-1988, SEC.81; P.L.3-1997, SEC.218; P.L.176-1999, SEC.60; P.L.66-2003, SEC.30.*

**IC 3-10-1-35**

**Publication of notices**

Sec. 35. Each notice required for a primary election shall be published in accordance with IC 5-3-1.

*As added by P.L.5-1986, SEC.6.*