

IC 3-11.7-2

Chapter 2. Casting a Provisional Ballot

IC 3-11.7-2-1

Requirements; notice to voter

Sec. 1. (a) As provided by 42 U.S.C. 15482, this section applies to the following individuals:

- (1) An individual:
 - (A) whose name does not appear on the registration list; and
 - (B) who is challenged under IC 3-10-1 or IC 3-11-8 after the voter makes an oral or a written affirmation under IC 3-7-48-5 or IC 3-7-48-7 or after the voter produces a certificate of error under IC 3-7-48-1.
- (2) An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or IC 3-11-8-27.5 who is challenged as not eligible to vote.
- (3) An individual who seeks to vote in an election as a result of a court order (or any other order) extending the time established for closing the polls under IC 3-11-8-8.

(b) As required by 42 U.S.C. 15483, a voter who has registered to vote but has not:

- (1) presented identification required under 42 U.S.C. 15483 to the poll clerk before voting in person under IC 3-11-8-25.1; or
- (2) filed a copy of the identification required under 42 U.S.C. 15483 to the county voter registration office before the voter's absentee ballot is cast;

is entitled to vote a provisional ballot under this article.

(c) A precinct election officer shall inform an individual described by subsection (a)(1) or (a)(2) that the individual may cast a provisional ballot if the individual:

- (1) is eligible to vote under IC 3-7-13-1;
- (2) submitted a voter registration application during the registration period described by IC 3-7-13-10; and
- (3) executes an affidavit described in IC 3-10-1-9 or IC 3-11-8-23.

(d) A precinct election officer shall inform an individual described by subsection (a)(3) that the individual may cast a provisional ballot.

As added by P.L.126-2002, SEC.87. Amended by P.L.209-2003, SEC.171; P.L.164-2006, SEC.121; P.L.219-2013, SEC.61.

IC 3-11.7-2-2

Duties of voter; instructions to voter

Sec. 2. (a) A provisional voter shall do the following:

- (1) Mark the ballot in the presence of no other person, unless the voter requests help in marking a ballot under IC 3-11-9.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided by the county election board under

IC 3-11.7-1-8.

(5) Securely seal the envelope.

(b) A provisional voter may mark a ballot with a pen or a lead pencil.

(c) This subsection applies to a provisional voter described in section 1(a)(1), 1(a)(2), or 1(a)(3) of this chapter. As provided by 42 U.S.C. 15482, a precinct election officer shall give the provisional voter a copy of the written instructions prescribed by the county election board under IC 3-11.7-6-3 after the voter returns the envelope containing the provisional voter's ballots.

As added by P.L.126-2002, SEC.87. Amended by P.L.209-2003, SEC.172.

IC 3-11.7-2-3

Duties of precinct election board; affidavits and envelopes; provisional ballots; ballots cast after regular polling hours

Sec. 3. (a) The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) The form of the envelope is prescribed under IC 3-6-4.1-14. The envelope must permit a member of a precinct election board to indicate whether the voter has been issued a provisional ballot as the result of a challenge based on the voter's inability or declination to provide proof of identification.

(c) Except as provided in subsection (d) and in accordance with 42 U.S.C. 15482, the precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

(d) This subsection applies to the sealed envelope and the affidavits affixed to the envelope of a provisional voter described in section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the precinct election board shall keep the sealed envelope or container separate from the envelope or container described in subsection (c). The envelope or container described in this subsection must be labeled "Provisional Ballots Issued After Regular Poll Closing Hours".

As added by P.L.126-2002, SEC.87. Amended by P.L.209-2003, SEC.173; P.L.109-2005, SEC.11.

IC 3-11.7-2-4

Handling provisional ballots at close of polls

Sec. 4. As required by 42 U.S.C. 15482, at the close of the polls, the precinct election board shall do the following:

(1) Seal:

(A) all the provisional ballots; and

(B) any spoiled provisional ballots;

of provisional voters other than provisional voters described in section 1(a)(3) of this chapter in the container described in section 3(b) of this chapter and mark on the container the number of provisional ballots contained.

(2) Seal:

(A) all the provisional ballots; and

(B) any spoiled provisional ballots;

of provisional voters described in section 1(a)(3) of this chapter in the container described in section 1(a)(3) of this chapter and mark on the container the number of provisional ballots contained.

The inspector shall return the container with all the provisional ballots to the circuit court clerk after the close of the polls.

As added by P.L.126-2002, SEC.87. Amended by P.L.209-2003, SEC.174.