



March 16, 2021

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# ENGROSSED HOUSE BILL No. 1485

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DIGEST OF HB 1485 (Updated March 15, 2021 11:55 am - DI 133)

**Citations Affected:** IC 3-5; IC 3-6; 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. 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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## Wesco, Manning

(SENATE SPONSORS — WALKER G, FORD JON)

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

February 11, 2021, amended, reported — Do Pass.

February 16, 2021, read second time, ordered engrossed. Engrossed.

February 18, 2021, read third time, passed. Yeas 88, nays 0.

SENATE ACTION

March 4, 2021, read first time and referred to Committee on Elections.

March 15, 2021, reported favorably — Do Pass.

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EH 1485—LS 7263/DI 104





March 16, 2021

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.

## ENGROSSED 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**

EH 1485—LS 7263/DI 104



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

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



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

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

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

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

- 14 (1) To serve process of court.  
15 (2) To vote.  
16 (3) To be present when summoned by ~~the election sheriffs or a~~  
17 ~~precinct judges:~~ **election officer under section 35 of this**  
18 **chapter.**  
19 ~~(4) To serve as a pollbook holder:~~  
20 ~~(5) (4) To serve as an absentee ballot courier appointed under~~  
21 ~~IC 3-11.5-4-22.~~

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

- 26 (1) Enter the polls at least thirty (30) minutes before the opening  
27 of the polls and remain there throughout election day until all  
28 tabulations have been completed.  
29 (2) Inspect the paper ballot boxes, ballot card voting system, or  
30 electronic voting system before votes have been cast.  
31 (3) Inspect the work being done by any precinct election officer  
32 (except when a precinct election officer enters a confidential login  
33 or password to obtain access to an electronic poll book or to  
34 operate a voting system).  
35 (4) Enter, leave, and reenter the polls at any time on election day.  
36 (5) Witness the calling and recording of the votes and any other  
37 proceedings of the precinct election officers in the performance  
38 of official duties.  
39 (6) Receive a summary of the vote prepared under IC 3-12-2-15,  
40 IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the  
41 precinct election board, providing:

- 42 (A) the names of all candidates of the political party whose



- 1 primary election is being observed by the watcher and the  
 2 number of votes cast for each candidate;  
 3 (B) the names of all candidates at a general, municipal, or  
 4 special election and the number of votes cast for each  
 5 candidate; or  
 6 (C) the vote cast for or against a public question.  
 7 (7) Accompany the inspector and judge in delivering the  
 8 tabulation and election returns to the county election board by the  
 9 most direct route.  
 10 (8) Be present when the inspector takes a receipt for the  
 11 tabulation and election returns delivered to the county election  
 12 board.

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

- 18 **(1) the inspector of the precinct;**  
 19 **(2) the county election board;** or  
 20 **(3) the prosecuting attorney.**  
 21 **(b) A watcher may not object to any other precinct election**  
 22 **officer concerning an alleged violation of election laws unless the**  
 23 **watcher has the prior consent of the inspector.**

24 **(c) Upon the unanimous vote of the entire membership of the**  
 25 **county election board, a watcher who violates subsection (b) or**  
 26 **engages in other disruptive action in the polls may:**  
 27 **(1) be removed from the polls; and**  
 28 **(2) have the watcher's credentials revoked.**

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

- 33 (1) Enter the polls at least thirty (30) minutes before the opening  
 34 of the polls and remain there throughout election day until all  
 35 tabulations have been completed.  
 36 (2) Inspect the paper ballot boxes, ballot card voting system, or  
 37 electronic voting system before votes have been cast.  
 38 (3) Inspect the work being done by any precinct election officer  
 39 (except when a precinct election officer enters a confidential login  
 40 or password to obtain access to an electronic poll book or to  
 41 operate a voting system).  
 42 (4) Enter, leave, and reenter the polls at any time on election day.



- 1 (5) Witness the calling and recording of the votes and any other  
 2 proceedings of the precinct election officers in the performance  
 3 of official duties.
- 4 (6) Receive a summary of the vote prepared under IC 3-12-2-15,  
 5 IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the  
 6 precinct election board, providing:
- 7 (A) the names of all candidates of the political party whose  
 8 primary election is being observed by the watcher and the  
 9 number of votes cast for each candidate if the watcher is  
 10 appointed under section 1(a)(1) of this chapter; or
- 11 (B) the names of all candidates at a school board election and  
 12 the number of votes cast for each candidate if the watcher is  
 13 appointed under section 1(a)(2) of this chapter.
- 14 (7) Accompany the inspector and the judge in delivering the  
 15 tabulation and the election returns to the county election board by  
 16 the most direct route.
- 17 (8) Be present when the inspector takes a receipt for the  
 18 tabulation and the election returns delivered to the county election  
 19 board.
- 20 ~~(9) Call upon the election sheriffs to make arrests.~~
- 21 **(b) A watcher appointed under this chapter shall report any**  
 22 **violation of election laws that comes to the watcher's attention to**  
 23 **any of the following:**
- 24 **(1) The inspector of the precinct.**
- 25 **(2) The county election board.**
- 26 **(3) The prosecuting attorney.**
- 27 **(c) A watcher may not object to any other precinct election**  
 28 **officer concerning an alleged violation of election laws unless the**  
 29 **watcher has the prior consent of the inspector.**
- 30 **(d) Upon the unanimous vote of the entire membership of the**  
 31 **county election board, a watcher who violates subsection (c) or**  
 32 **engages in other disruptive action in the polls may:**
- 33 **(1) be removed from the polls; and**
- 34 **(2) have the watcher's credentials revoked.**
- 35 SECTION 10. IC 3-14-1-6 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) A state police  
 37 department employee or a police officer or firefighter (including a  
 38 special duty, auxiliary, or volunteer police officer or firefighter) of a  
 39 political subdivision who recklessly:
- 40 (1) solicits votes or campaign funds;
- 41 (2) challenges voters; or
- 42 (3) performs any other election related function;



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

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

5 (1) A state police department civilian employee from voting while  
 6 on duty.

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

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

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

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

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

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

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

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

41 (1) material mailed to a voter; or

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





- 1            ~~(b)~~ (c) A person who knowingly does any electioneering:  
 2            (1) on election day within:  
 3                (A) the polls; or  
 4                (B) the chute;  
 5            (2) **before election day** within: **an area in**  
 6                (A) the office of the circuit court clerk or a satellite office of  
 7                the circuit court clerk established under IC 3-11-10-26.3 used  
 8                by an absentee voter board to permit an individual to cast an  
 9                absentee ballot; **or**  
 10              (B) **fifty (50) feet of the entrance to the office of the circuit**  
 11              **court clerk or satellite office;** or  
 12            (3) except for a voter who is:  
 13                (A) the person's spouse;  
 14                (B) an incapacitated person (as defined in IC 29-3-1-7.5) for  
 15                whom the person has been appointed the guardian (as defined  
 16                in IC 29-3-1-6); or  
 17                (C) a member of the person's household;  
 18            in the presence of a voter whom the person knows possesses an  
 19            absentee ballot provided to the voter in accordance with Indiana  
 20            law;  
 21            commits a Class A misdemeanor.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1485, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 28 through 42.

Page 3, delete lines 1 through 4.

Page 6, delete lines 12 through 20.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1485 as introduced.)

WESCO

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1485, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1485 as printed February 11, 2021.)

FORD JON, Chairperson

Committee Vote: Yeas 8, Nays 0

