

IC 5-8**ARTICLE 8. OFFICERS' IMPEACHMENT, REMOVAL,
RESIGNATION, AND DISQUALIFICATION**

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IC 5-8-1**Chapter 1. Impeachment and Removal From Office**

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IC 5-8-1-1**Officers; judges; prosecuting attorney; liability to
impeachment**

Sec. 1. (a) Under Article 6, Sections 7 and 8 of the Constitution of the State of Indiana, all state officers other than justices of the supreme court or judges of the court of appeals of Indiana or the Indiana tax court, all other judges, prosecuting attorneys, and all county, city, town, and township officers are liable to impeachment for any misdemeanor in office.

(b) A justice of the supreme court or a judge of the court of appeals of Indiana or of the

Indiana tax court is subject to removal from office under Article 7, Section 11 of the Constitution of the State of Indiana.

Formerly: Acts 1897, c.182, s.1. As amended by P.L.3-1993, SEC.241.

IC 5-8-1-2 Method of impeachment

Sec. 2. All impeachments must be by resolution, adopted, originated in and conducted by managers elected by the house of representatives, who must prepare articles of impeachment, present them at the bar of the senate and prosecute the same, and the trial must be had before the senate sitting as a court of impeachment.

Formerly: Acts 1897, c.182, s.2.

IC 5-8-1-3 Articles of impeachment

Sec. 3. When an officer is impeached by the house of representatives for a misdemeanor in office, the articles of impeachment must be delivered to the president of the senate, saving and excepting only that in case the officer impeached be the governor, lieutenant-governor, or the acting president of the senate, such articles shall be delivered to the secretary of the senate.

Formerly: Acts 1897, c.182, s.3.

IC 5-8-1-4 Hearing

Sec. 4. The senate must assign a day for the hearing of the impeachment, and inform the managers elected by the house of representatives thereof. The secretary of the senate must cause a copy of the articles of impeachment, with a notice to appear and answer the same at the time and place appointed, to be served on the defendant not less than ten (10) days before the day fixed for the hearing.

Formerly: Acts 1897, c.182, s.4.

IC 5-8-1-5 Service upon defendant

Sec. 5. The service must be made upon the defendant personally, or if he can not, upon diligent inquiry, be found within the state, the senate, upon proof of the fact, may order publication to be made, in such manner as it may deem proper, of a notice requiring him to appear at a specified time and place and answer the articles of impeachment.

Formerly: Acts 1897, c.182, s.5.

IC 5-8-1-6 Absence of defendant

Sec. 6. If the defendant does not appear, the senate, upon proof of service or publication, as provided in the two (2) sections last preceding, may, of its own motion, or for cause shown, assign another day for hearing the impeachment, or may proceed, in the absence of the defendant, to trial and judgment.

Formerly: Acts 1897, c.182, s.6.

IC 5-8-1-7 Objections to articles of impeachment; pleas

Sec. 7. When the defendant appears, he may in writing object to the sufficiency of the articles of impeachment, or he may answer the same by an oral plea of not guilty, which plea must be entered upon the journal and put in issue every material allegation of the articles of impeachment.

Formerly: Acts 1897, c.182, s.7.

IC 5-8-1-8 Answering articles of impeachment; judgment

Sec. 8. If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the senate who heard the argument, the defendant must be ordered forthwith to answer the articles of impeachment. If he then pleads guilty, the senate must render judgment of conviction against him. If he plead not guilty, or refuses to plead,

the senate must, at such time as it may appoint, proceed to try the impeachment.
Formerly: Acts 1897, c.182, s.8.

IC 5-8-1-9 Oaths

Sec. 9. At the time and place appointed, and before the senate proceeds to act on the impeachment, the secretary must administer to the president of the senate, and the president of the senate to each of the members of the senate then present, an oath, truly and impartially to hear, try and determine the impeachment; and no member of the senate can vote or act upon the impeachment, or upon any question arising thereon, without having taken such oath.
Formerly: Acts 1897, c.182, s.9.

IC 5-8-1-10 Conviction

Sec. 10. The defendant can not be convicted on impeachment without the concurrence of two-thirds of the members elected, voting by ayes and noes, and if two-thirds of the members elected do not concur in a conviction, he must be acquitted.
Formerly: Acts 1897, c.182, s.10.

IC 5-8-1-11 Judgment

Sec. 11. After conviction, the senate must, at such time as it may appoint, pronounce judgment, in the form of resolution entered upon the journals of the senate.
Formerly: Acts 1897, c.182, s.11.

IC 5-8-1-12 Resolution of acquittal or conviction

Sec. 12. On the adoption of the resolution by a majority of the members present who voted on the question of acquittal or conviction, it becomes the judgment of the senate.
Formerly: Acts 1897, c.182, s.12.

IC 5-8-1-13 Suspension or removal from office

Sec. 13. The judgment may be that the defendant be suspended or that he be removed from office and disqualified to hold any office of honor, trust or profit, under the state.
Formerly: Acts 1897, c.182, s.13.

IC 5-8-1-14 Disqualification of defendant from receiving salaries

Sec. 14. If judgment of suspension is given, the defendant, during the continuance thereof, is disqualified from receiving the salary, fees or emoluments of the office.
Formerly: Acts 1897, c.182, s.14.

IC 5-8-1-15 Temporary suspension during pendency of proceedings; filling vacancies

Sec. 15. Whenever articles of impeachment against any officer subject to impeachment are presented to the senate, such officer is temporarily suspended from office and cannot act in the officer's official capacity until the officer is acquitted. Upon such suspension of any officer other than the governor, the office must, at once, be temporarily filled by an appointment made by the governor, with the advice and consent of the senate, until the acquittal of the party impeached, or, in case of removal, until the vacancy is filled as required by law.
Formerly: Acts 1897, c.182, s.15. As amended by P.L.3-1989, SEC.27.

IC 5-8-1-16 Impeachment of governor or lieutenant governor; chief justice to preside

Sec. 16. If the governor or lieutenant-governor is impeached, the chief justice of the Supreme Court of the state shall preside over the senate during the impeachment trial, but he shall not have the right to vote.

Formerly: Acts 1897, c.182, s.16.

IC 5-8-1-17 Indictment or information not barred

Sec. 17. If the offense for which the defendant is convicted on impeachment is also the subject of an indictment or information, the indictment or information is not barred hereby.

Formerly: Acts 1897, c.182, s.17.

IC 5-8-1-18 Senate to continue in session

Sec. 18. In case impeachment proceedings be pending in the senate at the time of the expiration of any session of the general assembly, the senate shall be continued in session for the sole and only purpose of sitting as a court of impeachment until such impeachment proceedings be concluded, and may, pending the conclusion of such impeachment proceedings, adjourn from time to time, as it may deem expedient.

Formerly: Acts 1897, c.182, s.18.

IC 5-8-1-19 Judge or prosecuting attorney; duties of attorney general

Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, or probate court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

- (1) IC 33-33-2-39;
- (2) IC 33-33-2-43;
- (3) IC 33-33-45-38; and
- (4) IC 33-33-71-40;

appoint or select a successor to fill the vacancy in office.

Formerly: Acts 1897, c.182, s.19. As amended by P.L.3-1987, SEC.497; P.L.3-1993, SEC.242; P.L.16-1995, SEC.3; P.L.19-1995, SEC.4; P.L.98-2004, SEC.62; P.L.201-2011, SEC.7.

IC 5-8-1-20 Repealed

Formerly: Acts 1897, c.182, s.20. Repealed by P.L.3-1993, SEC.282.

IC 5-8-1-21 Written accusations; grand jury

Sec. 21. An accusation in writing against any district officer, county officer, township officer, municipal officer, or prosecuting attorney may be presented by the grand jury of the county in which the officer accused is elected or appointed.

Formerly: Acts 1897, c.182, s.21. As amended by P.L.1-1990, SEC.56.

IC 5-8-1-22 Form of accusation

Sec. 22. The accusation must state the offense charged in ordinary and concise language, and without repetition.

Formerly: Acts 1897, c.182, s.22.

IC 5-8-1-23 Delivery of accusations; service on defendant

Sec. 23. The accusation must be delivered by the foreman of the grand jury to the prosecuting attorney of the county, except when the prosecuting attorney of the county is the officer accused, who must cause a copy thereof to be served upon the defendant, and require, by notice in writing of not less than ten (10) days, that the defendant appear before the circuit court or superior court of the county at the time mentioned in the notice, and answer the

accusation. The original accusation must then be filed with the clerk of the court, or if the clerk of the court is the party accused, with the judge of the court.

Formerly: Acts 1897, c.182, s.23. As amended by P.L.3-1993, SEC.243; P.L.84-2016, SEC.23.

IC 5-8-1-24 Appearance of defendant

Sec. 24. The defendant must appear at the time appointed in the notice and answer the accusation, unless, for some sufficient cause, the court assign another day for that purpose. If he does not appear, the court may proceed to hear and determine the accusation in his absence.

Formerly: Acts 1897, c.182, s.24.

IC 5-8-1-25 Answering accusation

Sec. 25. The defendant may answer the accusation either by objecting to the sufficiency of the accusation or of any article of the accusation or by denying the truth of the same.

Formerly: Acts 1897, c.182, s.25. As amended by P.L.136-2018, SEC.31.

IC 5-8-1-26 Objections to legal sufficiency of accusation

Sec. 26. If the defendant objects to the legal sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it presents intelligibly the grounds of the objection.

Formerly: Acts 1897, c.182, s.26.

IC 5-8-1-27 Denial of accusation

Sec. 27. If he denies the truth of the accusation, the denial may be oral and without oath, and must be entered upon the minutes.

Formerly: Acts 1897, c.182, s.27.

IC 5-8-1-28 Objection to accusation not sustained

Sec. 28. If an objection to the sufficiency of the accusation is not sustained, the defendant must answer thereto forthwith.

Formerly: Acts 1897, c.182, s.28.

IC 5-8-1-29 Guilty plea or refusal to answer; not guilty plea

Sec. 29. If the defendant pleads guilty, or refuses to answer the accusation, the court must render judgment of conviction against him. If he denies the matters charged, the court must immediately, or at such time as it may appoint, proceed to try the accusation.

Formerly: Acts 1897, c.182, s.29.

IC 5-8-1-30 Trial

Sec. 30. The trial must be by a jury, and conducted in all respects in the same manner as the trial of an indictment for a misdemeanor.

Formerly: Acts 1897, c.182, s.30.

IC 5-8-1-31 Attendance of witnesses

Sec. 31. The prosecuting attorney and the defendant are respectively entitled to such process as may be necessary to enforce the attendance of witnesses, as upon a trial of an indictment.

Formerly: Acts 1897, c.182, s.31.

IC 5-8-1-32 Repealed

Formerly: Acts 1897, c.182, s.32. Repealed by Acts 1982, P.L.34, SEC.2.

IC 5-8-1-33 Repealed

Formerly: Acts 1897, c.182, s.33. Repealed by Acts 1982, P.L.34, SEC.2.

IC 5-8-1-34 Removal of prosecuting attorney; proceedings

Sec. 34. The same proceedings may be had on like grounds for the removal of a prosecuting attorney, except that the accusation must be delivered by the foreman of the grand jury to the clerk, and by the clerk to the judge of the circuit court or superior court of the county, who must thereupon notify the attorney general to act as prosecuting officer in the matter, and shall designate some resident attorney to act as assistant to the attorney general in such prosecution, whose compensation shall be fixed by the court and paid out of the county treasury.

Formerly: Acts 1897, c.182, s.34. As amended by P.L.84-2016, SEC.24.

IC 5-8-1-35 Verification of accusation; citing party; hearing; judgment

Sec. 35. (a) When an accusation in writing, verified by the oath of any person, is presented to a circuit court, superior court, or probate court, alleging that any officer within the jurisdiction of the court has been guilty of:

- (1) charging and collecting illegal fees for services rendered or to be rendered in the officer's office;
- (2) refusing or neglecting to perform the official duties pertaining to the officer's office;
- or
- (3) violating IC 36-6-4-17(b) if the officer is the executive of a township;

the court must cite the party charged to appear before the court at any time not more than ten (10) nor less than five (5) days from the time the accusation was presented, and on that day or some other subsequent day not more than twenty (20) days from the time the accusation was presented must proceed to hear, in a summary manner, the accusation and evidence offered in support of the same, and the answer and evidence offered by the party accused.

(b) If after the hearing under subsection (a) it appears that the charge is sustained, the court must do the following:

- (1) Enter a decree that the party accused be deprived of the party's office.
- (2) Enter a judgment as follows:
 - (A) For five hundred dollars (\$500) in favor of the prosecuting officer.
 - (B) For costs as are allowed in civil cases.
 - (C) For the amount of money that was paid to the officer in compensation from the day when the accusation was filed under this section to the day when judgment is entered in favor of the public entity paying the compensation to the officer.

(c) In an action under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the accused officer if:

- (1) the officer prevails; and
- (2) the court finds that the accusation is frivolous or vexatious.

Formerly: Acts 1897, c.182, s.35. As amended by P.L.34-1992, SEC.1; P.L.84-2016, SEC.25.

IC 5-8-1-36 Repealed

Formerly: Acts 1897, c.182, s.37; Acts 1899, c.119, s.1. Repealed by Acts 1982, P.L.34, SEC.2.

IC 5-8-1-37 Repealed

As added by Acts 1982, P.L.34, SEC.1. Amended by P.L.16-1983, SEC.2; P.L.113-2005, SEC.2; P.L.119-2005, SEC.25. Repealed by P.L.37-2008, SEC.4.

IC 5-8-1-38 Felony conviction; removal; appeal; reinstatement; remuneration; vacancy

Sec. 38. (a) The following definitions apply throughout this section:

(1) "Felony" has the meaning set forth in IC 3-8-1-5.

(2) "Public officer" means either of the following:

(A) An individual who holds an elected office (as defined in IC 3-5-2-17), other than a federal office.

(B) An individual who holds an appointed office of the state or a political subdivision (as defined in IC 36-1-2-13).

(b) Any public officer convicted of a felony during the public officer's term of office shall:

(1) be removed from office by operation of law when:

(A) in a jury trial, a jury publicly announces a verdict against the person for a felony;

(B) in a bench trial, the court publicly announces a verdict against the person for a felony; or

(C) in a guilty plea hearing, the person pleads guilty or nolo contendere to a felony; and

(2) not receive any salary or remuneration from the time the public officer is removed from office under subdivision (1).

(c) The subsequent reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 after the:

(1) jury has announced its verdict against the person for a felony;

(2) court has announced its verdict against the person for a felony; or

(3) person has pleaded guilty or nolo contendere to a felony;

does not affect the operation of subsection (b).

(d) If the conviction is:

(1) reversed;

(2) vacated;

(3) set aside;

(4) for a felony other than a felony arising out of an action taken in the public officer's official capacity, reduced to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5; or

(5) not entered because the trial court did not accept the guilty plea;

and the public officer's term has not expired, the public officer shall be reinstated in office and receive any salary or other remuneration that the public officer would have received had the public officer not been removed from office.

(e) If the conviction is reversed, vacated, or set aside and the public officer's term has expired, the public officer shall receive any salary or other remuneration that the public officer would have received had the public officer not been removed from office.

(f) A vacancy in a public office caused by the removal of a public officer under this section shall be filled as provided by law. If a convicted public officer is reinstated, the person filling the office during the appeal shall cease to hold the office.

(g) This subsection applies whenever:

(1) a public officer is removed from office by operation of law under subsection (b); and

(2) a vacancy occurs in a state, county, township, city, or town office as the result of the removal from office.

The court must file a certified copy of the sentencing order with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the office. The person receiving a copy of the sentencing order must give notice of the vacancy in the same manner as if the person had received a notice under IC 5-8-6. The person who is required or permitted to fill the vacancy must comply with IC 3-13.

(h) This subsection applies if a public officer is reinstated in office under subsection (d). The court must file a certified copy of the order reversing, vacating, reducing, or setting aside the conviction with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the office. The person receiving a copy of the order must give notice

of the reinstatement in the same manner as notice of a vacancy would be given under IC 5-8-6. The person receiving a copy of the order must also give notice to the person who was selected to fill the vacancy before the reinstatement occurred.
As added by P.L.37-2008, SEC.2. Amended by P.L.57-2015, SEC.1.

IC 5-8-2 **Chapter 2. Removal From Office for Intoxication**

5-8-2-1 Voluntary intoxication during business hours

IC 5-8-2-1 **Voluntary intoxication during business hours**

Sec. 1. Any person holding any office under the constitution or laws of this state who shall voluntarily become intoxicated within the business hours of the office, or is in the habit of becoming intoxicated by the use of intoxicating liquors, shall be removed from office under IC 34-17.

Formerly: Acts 1875, c.58, s.1. As amended by P.L.3-1993, SEC.244; P.L.1-1998, SEC.68.

IC 5-8-3 **Chapter 3. Disqualification by Violation of Federal Law**

5-8-3-1 Draft dodging; sedition
5-8-3-2 Appointment or election void

IC 5-8-3-1 **Draft dodging; sedition**

Sec. 1. A person may not hold an office within Indiana, either by election or appointment, if the person has been convicted of:

- (1) evading the Selective Service Act (50 App. U.S.C. 451-473);
- (2) engaging in conspiracy or an attempt to defraud the government of the United States;
- (3) seditious utterances in violation of the laws of the United States; or
- (4) any other crime against the laws of the United States where the sentence imposed exceeded six (6) months.

Formerly: Acts 1921, c.83, s.1. As amended by P.L.3-1987, SEC.498; P.L.10-1988, SEC.216.

IC 5-8-3-2 **Appointment or election void**

Sec. 2. Any appointment or election of any person lacking the qualification described in section 1 of this chapter is absolutely void and the person shall be removed from office under IC 34-17.

Formerly: Acts 1921, c.83, s.2. As amended by P.L.25-1986, SEC.25; P.L.3-1993, SEC.245; P.L.1-1998, SEC.69.

IC 5-8-3.5 Chapter 3.5. Notice of Resignation

5-8-3.5-1 Notices of resignation and vacancy

IC 5-8-3.5-1 Notices of resignation and vacancy

Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following, whichever applies:

(A) A member of the senate shall notify the president pro tempore of the senate.

(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, the auditor of state, the treasurer of state, before January 11, 2021, the superintendent of public instruction, or the attorney general.

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge of a circuit, city, county, probate, superior, town, or township small claims court.

(F) A prosecuting attorney.

(G) A circuit court clerk.

(H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or

(2) call a caucus for the purpose of filling the vacancy.

[Pre-Local Government Recodification Citations: 5-5-1-5; 5-5-1-8.]

As added by Acts 1980, P.L.8, SEC.39. Amended by P.L.49-1983, SEC.1; P.L.6-1983, SEC.17; P.L.5-1986, SEC.12; P.L.1-1991, SEC.31; P.L.10-1992, SEC.27; P.L.3-1993, SEC.246; P.L.3-1997, SEC.419; P.L.26-2000, SEC.34; P.L.14-2004, SEC.182; P.L.8-2019, SEC.12.

IC 5-8-4 Chapter 4. Resignations

5-8-4-1	No right to withdrawal without consent
5-8-4-2	Conditions null and void
5-8-4-3	Repealed
5-8-4-4	Effective upon filing with person authorized to receive resignation
5-8-4-5	Effective on time or date contained in resignation
5-8-4-6	Effective upon filing with first required entity

IC 5-8-4-1 No right to withdrawal without consent

Sec. 1. Whenever any officer, servant or employee of the state of Indiana, or of any board, bureau, commission, department, division, instrumentality or agency thereof, or of any city, town, county, township, or school corporation, or of any board, bureau, commission, department, division, instrumentality or agency of any city, town, county, township, or school corporation, shall submit in writing his or her resignation, whether to take effect at once, when accepted, or at some future fixed date, with the proper officer, person or persons or authority of government to receive such resignation, the person so submitting such written resignation shall have no right to withdraw, rescind, annul or amend such resignation without the consent of the officer, person or persons or authority of government having power by law to fill such vacancy.

Formerly: Acts 1945, c.119, s.1.

IC 5-8-4-2 Conditions null and void

Sec. 2. Any condition contained in any resignation, except as to time of taking effect of the same, shall be null and void.

Formerly: Acts 1945, c.119, s.2.

IC 5-8-4-3 Repealed

Formerly: Acts 1945, c.119, s.3. As amended by P.L.25-1986, SEC.26. Repealed by P.L.4-1988, SEC.5.

IC 5-8-4-4 Effective upon filing with person authorized to receive resignation

Sec. 4. (a) This section applies to a person holding an elected or appointed office.

(b) When the person submits a written resignation as an officer, the resignation takes effect when filed with the proper person authorized to receive the resignation unless the resignation:

(1) has a delayed effective date; or

(2) is withdrawn, rescinded, annulled, or amended in accordance with this chapter.

As added by P.L.3-1997, SEC.420.

IC 5-8-4-5 Effective on time or date contained in resignation

Sec. 5. A written resignation containing a provision stating that the resignation takes effect at a time or on a date following the filing of the resignation with the proper person takes effect at that time or on that date.

As added by P.L.3-1997, SEC.421.

IC 5-8-4-6 Effective upon filing with first required entity

Sec. 6. If this article requires that notice of a resignation be filed with more than one (1) officer or entity, the resignation becomes effective when filed with the first entity unless otherwise stated in the resignation.

As added by P.L.3-1997, SEC.422.

IC 5-8-5 Chapter 5. Notice of a Town Council Vacancy

5-8-5-1	Applicability
5-8-5-2	"Member" defined
5-8-5-3	Public meeting to determine vacancy on town council
5-8-5-4	Declaring vacancy on town council; notice of vacancy
5-8-5-5	Right of vacating town council member to file action

IC 5-8-5-1 Applicability

Sec. 1. This chapter applies when a vacancy must be filled under:

- (1) IC 3-13-9; or
- (2) IC 3-13-11;

due to a reason set forth in IC 36-5-2-6.5(3).

As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.16; P.L.119-2005, SEC.26.

IC 5-8-5-2 "Member" defined

Sec. 2. As used in this chapter, "member" refers to a town council member.

As added by P.L.174-2002, SEC.4.

IC 5-8-5-3 Public meeting to determine vacancy on town council

Sec. 3. (a) The town council may hold a public meeting to determine whether a circumstance has occurred under IC 36-5-2-6.5(3) that results in a vacancy on the town council. The town council may set a meeting for making the determination on its own motion, or a person may petition the town council to set a meeting to make the determination. The town council may grant or deny a petition for a meeting.

(b) If a person files a petition with the council, the petition must state the basis for the person's claim that a circumstance has occurred under IC 36-5-2-6.5(3).

As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.17; P.L.119-2005, SEC.27.

IC 5-8-5-4 Declaring vacancy on town council; notice of vacancy

Sec. 4. (a) If the town council is reasonably satisfied that any circumstance has occurred under IC 36-5-2-6.5(3), the council may, by an affirmative vote of a majority of the members appointed to the body, vote to declare a vacancy in the town council membership. The member who is alleged to have vacated the member's seat may participate in the meeting as a member, but may not vote on the issue.

(b) If the member who is the subject of the petition or motion does not attend the meeting at which the town council makes the determination that a vacancy exists, the town council shall mail notice of its determination to the member.

(c) If the town council determines that a vacancy exists, the town clerk-treasurer shall give the circuit court clerk notice of the determination not later than five (5) days after the date of the town council's determination. The circuit court clerk shall give notice to the county chairman if a caucus is required under IC 3-13-11 to fill the vacancy.

As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.18; P.L.119-2005, SEC.28.

IC 5-8-5-5 Right of vacating town council member to file action

Sec. 5. The member whose seat is vacated may file an action under IC 34-17-1 with the circuit court, superior court, or probate court of the county where the town is located.

As added by P.L.174-2002, SEC.4. Amended by P.L.84-2016, SEC.26.

IC 5-8-6 Chapter 6. Notice of Death of an Officeholder

5-8-6-1	Applicability
5-8-6-2	"Officeholder"
5-8-6-3	Certification of officeholder's death
5-8-6-4	Vacancies filled by governor
5-8-6-5	Secretary of state's notice
5-8-6-6	Circuit court clerk's notice

IC 5-8-6-1 Applicability

Sec. 1. This chapter applies when a vacancy must be filled under:

- (1) IC 3-13-4;
- (2) IC 3-13-5;
- (3) IC 3-13-6;
- (4) IC 3-13-7;
- (5) IC 3-13-8;
- (6) IC 3-13-9;
- (7) IC 3-13-10;
- (8) IC 3-13-11; or
- (9) IC 20;

due to the death of an officeholder.

As added by P.L.119-2005, SEC.29.

IC 5-8-6-2 "Officeholder"

Sec. 2. As used in this chapter, "officeholder" refers to a person who holds a state office, legislative office, local office, or school board office (as those terms are defined in IC 3-5-2).

As added by P.L.119-2005, SEC.29.

IC 5-8-6-3 Certification of officeholder's death

Sec. 3. (a) A person who knows of the death of an officeholder may certify the death to the following:

- (1) The governor, in the case of the death of any of the following:
 - (A) An individual who holds a state office (as defined in IC 3-5-2-48).
 - (B) An individual who is a judge of a circuit, superior, small claims, probate, or city court.
- (2) The secretary of state, in the case of the death of an individual who holds a legislative office (as defined in IC-3-5-2-28).
- (3) The prosecuting attorney and circuit court clerk of the county in which the officeholder resided, in the case of the death of an officeholder of a county, city, town, township, or school corporation not covered under subdivision (1).

(b) A person who certifies the death of an officeholder shall:

- (1) state the information that causes the person to believe the officeholder has died; and
- (2) certify, under the penalties for perjury, that to the best of the person's knowledge and belief, the information stated is true.

As added by P.L.119-2005, SEC.29. Amended by P.L.278-2019, SEC.165.

IC 5-8-6-4 Vacancies filled by governor

Sec. 4. When the governor:

- (1) obtains information concerning the death of an individual who:
 - (A) holds a state office (as defined in IC 3-5-2-48); or
 - (B) is a judge of a circuit, superior, probate, county, or city court; and
- (2) is reasonably satisfied that the information described in subdivision (1) is true;

the governor shall fill the vacancy as provided by law.

As added by P.L.119-2005, SEC.29.

IC 5-8-6-5 Secretary of state's notice

Sec. 5. (a) When the secretary of state:

(1) obtains information concerning the death of an individual who holds a legislative office (as defined in IC 3-5-2-28); and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the secretary of state shall give notice of the death to the state chairman of the political party that elected or selected the deceased individual.

(b) The secretary of state shall give the notice required by subsection (a) not later than seventy-two (72) hours after the requirements of subsection (a)(1) and (a)(2) are satisfied.

As added by P.L.119-2005, SEC.29.

IC 5-8-6-6 Circuit court clerk's notice

Sec. 6. (a) When a circuit court clerk:

(1) obtains information concerning the death of an officeholder of a county, city, town, township, or school corporation not subject to section 4 of this chapter; and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the circuit court clerk shall give notice of the death to the person described in subsection (b).

(b) The circuit court clerk shall give the notice required by subsection (a) to:

(1) the person who must give notice of any meeting or caucus required to fill the vacancy caused by the death; or

(2) if a meeting or caucus is not required to fill the vacancy, the person who has the power to fill the vacancy.

(c) The circuit court clerk shall give the notice required by subsection (a) not later than seventy-two (72) hours after the requirements of subsection (a)(1) and (a)(2) are satisfied.

As added by P.L.119-2005, SEC.29.