

2021 - 2022 LEGISLATURE

2021 SENATE BILL 204

March 16, 2021 - Introduced by Senators STROEBEL, DARLING, ROTH, WANGGAARD, BRADLEY, NASS, BALLWEG and FELZKOWSKI, cosponsored by Representatives GUNDRUM, ROZAR, EDMING, SPIROS, KRUG, NEYLON, BROOKS, MURPHY, JAGLER, ALLEN, KNODL and WICHGERS. Referred to Committee on Elections, Election Process Reform and Ethics.

1 **AN ACT** *to repeal* 6.24 (4) (c), 6.86 (2m), 6.87 (4) (b) 2. and 6.87 (4) (b) 3.; *to*
2 *renumber and amend* 6.86 (1) (ar); *to amend* 6.18, 6.30 (5), 6.86 (1) (a) 3., 6.86
3 (1) (ac), 6.86 (1) (b), 6.86 (2) (a), 6.86 (2) (b), 6.87 (1), 6.87 (2), 6.87 (4) (b) 1., 6.87
4 (4) (b) 5., 6.875 (3) (a), 6.875 (4) (a) and 7.15 (1) (j); and *to create* 6.86 (1) (as),
5 6.86 (2) (am), 6.86 (8), 6.88 (4) and 7.15 (1) (jj) of the statutes; **relating to:**
6 absentee ballot applications, unsolicited mailing or transmission of absentee
7 ballot applications and absentee ballots, canvassing absentee ballots,
8 electronic voter registration, and providing a penalty.

Analysis by the Legislative Reference Bureau

ABSENTEE BALLOTS

This bill makes a number of changes to the laws relating to absentee ballots in Wisconsin.

1. Applications for absentee ballots

Subject to an exception for certain voters at residential care facilities and qualified retirement homes, current law prohibits a municipal clerk from issuing an absentee ballot to a voter, including in person at the municipal clerk's office, unless the voter submits a written application for the absentee ballot. Current law does not prescribe a specific form of written application for requesting absentee ballots.

The bill requires the Elections Commission to prescribe the form and instructions of the absentee ballot application. The bill also requires the absentee ballot application to be separate and distinct from the certificate envelope in which voters must seal and submit absentee ballots, the outer portion of which includes certifications of both the voter and a witness. Additionally, the bill requires that the application require the voter to certify facts establishing that he or she is eligible to vote in the election and must include at least all of the following information:

- a. The voter's municipality and county of residence.
- b. The voter's name, date of birth, and contact information, including as applicable the voter's telephone number, fax number, and e-mail address.
- c. The street address of the voter's legal voting residence.
- d. The election at which the voter intends to vote absentee.

- e. Whether the voter is a military or overseas voter.
- f. The voter's confidential identification serial number if the voter has obtained a confidential listing for purposes of voting.
- g. The lawful method by which the voter prefers to receive the absentee ballot.
- h. Whether the voter is a hospitalized voter.

The bill provides that any municipal clerk issuing an absentee ballot without having received a completed application on the form prescribed by the Elections Commission under the bill that contains the voter's original written signature, a copy of the voter's original written signature if transmitted by facsimile transmission, or the voter's electronic signature if submitted in Portable Document Format (PDF) by e-mail, or the signature of a person authorized by law to sign on the elector's behalf, is subject to a Class I felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

2. Automatic receipt of absentee ballots

Current law allows the following voters to receive absentee ballots automatically for each election for specified periods:

- a. Indefinitely confined voters. Current law allows a voter who identifies himself or herself as indefinitely confined because of age, physical illness, infirmity, or disability to have, by signing a statement to that effect, an absentee ballot sent to the voter automatically every election. If an indefinitely confined voter fails to vote in an election, the municipal clerk must remove the voter from the indefinitely confined list if the voter does not renew his or her indefinitely confined status after 30-days' notice. Additionally, the clerk must remove a voter from the list if the clerk receives reliable information indicating the voter is no longer indefinitely confined.
- b. Overseas voters. Certain overseas voters registered to vote in Wisconsin may apply for automatic receipt of absentee ballots for all national elections occurring during the year of application.
- c. Military voters. Service members who are on active duty and as a result are absent from their residence in Wisconsin may apply for automatic receipt of absentee ballots for all elections occurring during the year of application, or as otherwise requested by the service member.

d. All other voters. Any other voter eligible to vote absentee in Wisconsin may apply for automatic receipt of absentee ballots for all elections occurring in the voter's municipality during the year of application.

The bill eliminates the option for indefinitely confined voters, overseas voters, and all other voters, other than military voters, to receive an absentee ballot automatically for any election. However, the bill authorizes indefinitely confined voters to request and receive absentee ballot applications, rather than absentee ballots, automatically for each election. Active duty service members may continue to request automatic receipt of absentee ballots as provided under current law.

3. Photo ID requirements for absentee voters

Current law requires most voters applying to vote absentee in an election to submit proof of identification, such as a driver's license, with their absentee ballot application. The municipal clerk must verify that the name on the proof of identification conforms to the name on the voter's absentee ballot application. However, current law exempts from that proof of identification requirement certain indefinitely confined voters, as described above; overseas voters; and voters who received an absentee ballot from the municipal clerk by mail for a previous election, had provided proof of identification with that ballot, and had not changed their name or address since providing that proof of identification.

This bill eliminates those three exemptions. The bill leaves in place all of the following exemptions under current law:

- a. Active duty military voters are exempt from having to submit proof of identification with the absentee ballot application.

b. Certain individuals who are the victims of domestic abuse, sexual assault, or stalking may obtain a confidential listing and keep their identities private for purposes of voting. If an individual applies and qualifies for a confidential listing, he or she is issued a unique identification serial number by the Elections Commission. When applying for an absentee ballot, an individual who has obtained a confidential listing may submit that unique identification serial number in lieu of providing proof of identification.

c. Residents of residential care facilities or qualified retirement homes who, in lieu of providing a copy of proof of identification with their absentee ballot, may submit a statement signed by special voting deputies, or by others if no special voting deputies are available, that includes certain information and certifications required by law.

d. An individual whose driver's license is revoked and who has been required to surrender his or her license within 60 days before an election may enclose a copy of the citation or notice in lieu of submitting his or her driver's license for purposes of applying for an absentee ballot.

4. Unsolicited mailing or transmission of absentee ballot applications and absentee ballots

The bill prohibits any municipal or county clerk or municipal or county board of election commissioners, and any person acting on behalf of the Elections Commission, from sending or transmitting an absentee ballot application or an absentee ballot to a voter for purposes of voting in an election unless the voter applies

for the application or ballot as provided by law. Any person violating that prohibition is guilty of a Class I felony.

5. Notices concerning the canvass of absentee ballots

Under the bill, once the canvassing of absentee ballots begins with respect to any election, the municipal clerk must hourly post, at his or her office and on the Internet, a statement showing the number of absentee ballots that the clerk has mailed or transmitted to voters, the number of absentee ballots that have been returned to the clerk, the number of absentee ballots counted, and the number of absentee ballots remaining to be counted.

ELECTRONIC VOTER REGISTRATIONS

Under current law, an individual holding a valid driver's license or identification card issued by the Department of Transportation and who is eligible to vote in Wisconsin may register electronically. The Elections Commission maintains an Internet site that is used by voting-eligible individuals for purposes of electronic registration, currently titled MyVote Wisconsin. Current law requires the commission to provide a secure registration form on that Internet site that enables the individual to enter and update the information necessary for purposes of voter registration. Upon the voter's authorization, the commission obtains the individual's electronic signature from DOT for purposes of authenticating the information provided by the individual.

The bill requires the Elections Commission to maintain a version of the completed application, including the voter's electronic signature, in PDF. The commission must make the PDF version of the completed application available to the municipal clerk or board of election commissioners of the municipality where the voter resides.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 6.18 of the statutes is amended to read:

6.18 Former residents. If ineligible to qualify as an elector in the state to which the elector has moved, any former qualified Wisconsin elector may vote an absentee ballot in the ward of the elector's prior residence in any presidential election occurring within 24 months after leaving Wisconsin by requesting an application

form and returning it, properly executed, to the municipal clerk of the elector's prior Wisconsin residence. When requesting an application form for an absentee ballot, the applicant shall specify the applicant's eligibility for only the presidential ballot. Unless the applicant is exempted from providing proof of identification under s. 6.87-~~(4) (b) 2. or 3., or the applicant is a military or overseas elector, the elector shall~~ enclose a copy of his or her proof of identification or any authorized substitute document with his or her application. The municipal clerk shall verify that the name on the proof of identification conforms to the name on the application. The clerk shall not issue a ballot to an elector who is required to enclose a copy of proof of identification or an authorized substitute document with his or her application unless the copy is enclosed and the proof is verified by the clerk. The application form shall require the following information and be in substantially the following form:

This form shall be returned to the municipal clerk's office. Application must be received in sufficient time for ballots to be mailed and returned prior to any presidential election at which applicant wishes to vote. Complete all statements in full.