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# RICK GUNDRUM

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STATE REPRESENTATIVE • 58<sup>TH</sup> ASSEMBLY DISTRICT

## Testimony on Assembly Bill 201

Assembly Committee on Campaigns and Elections | April 27, 2021 | Assembly  
Chambers

Thank you Chair Brandtjen and members of the Assembly Committee on Campaigns and Elections for holding a hearing on Assembly Bill 201. Sen. Duey Stroebel and I authored AB 201 to restore the integrity of our election system. The bill makes a series of changes to applying for, mailing, and canvassing absentee ballots. It also closes voter ID loopholes and provides clarification to online voter registration.

This bill will require the Wisconsin Elections Commission to create uniformity when it comes to absentee ballot request forms. A voter who applies for an absentee ballot will be required to prove they are eligible to vote in an election and include their name, date of birth, contact information, the street address of the voter's legal residence, and whether or not the voter is hospitalized.

Current law allows indefinitely confined voters, overseas voters, military voters, and any other voter who has once applied for an absentee ballot to receive to absentee ballots in all future elections. This bill eliminates that provision with an exception for military and overseas voters. Indefinitely confined voters can still request to automatically receive absentee ballot applications.

AB 201 also strengthens voter ID requirements by no longer exempting voters who received an absentee ballot by mail in a previous election, overseas voters, and certain indefinitely confined voters. The bill does keep in place exemptions that are necessary, such as active duty military voters and victims of domestic abuse who have obtained a confidential listing.



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STATE REPRESENTATIVE • 58<sup>TH</sup> ASSEMBLY DISTRICT

This bill firmly secures our elections by putting place a Class I felony for any election official who sends an absentee ballot or absentee ballot application to a voter without receiving approval from that voter to do so. The bill also requires that clerks post the number of absentee ballots mailed, returned, counted, and remaining to be counted during the canvass every hour.

Lastly, AB 201 requires the Wisconsin Elections Commission to keep a version of a voter's completed voter application if the voter submitted the application electronically. The application must be in PDF format and be made available to the clerk or board of election commissioners of the municipality where that voter lives.

Last year, a Gallup poll revealed that many Americans are losing faith in our election system. It found out 59% of Americans are not confident in the honesty of U.S. elections. It is imperative that we restore confidence in our election system. AB 201 is a wide-ranging election reform bill that will do just that.

Thank you for your time and consideration.



# DUEY STROEBEL

STATE SENATOR • 20<sup>TH</sup> DISTRICT

## Testimony on AB 201

*April 27, 2021*

Good morning Chair Brandtjen and members of the Assembly Committee on Campaigns and Elections. Last year we witnessed an astonishing uptick in absentee voting. According to the Wisconsin Elections Commission, 27.8% of votes cast in the November 2016 election were absentee ballots. In November of 2020, 59.7% of votes cast were absentee ballots. This increase in absentee voting, driven primarily by COVID-19, highlighted some discrepancies in our current absentee ballot process. It also highlighted a couple of opportunities to codify best-practices that increase transparency and provide uniformity to absentee voting.

Under current law, some voters automatically receive absentee ballots in the mail, and others must request them every time they wish to vote. Under current law, some absentee voters are required to complete a request form, and other voters are told an absentee ballot witness certificate is sufficient. Some voters are required to show a photo ID when they cast an absentee ballot, and others are not. AB 201 contains provisions to standardize the treatment of these topics in statute and ensure that the absentee ballot process is uniform and consistent for all voters.

One thing that I believe works well is the current absentee ballot request form, or EL-121. This document clearly and succinctly outlines the information that a municipal clerk needs to issue an absentee ballot. However, there is no specific statutory requirement that all municipalities in the state use this form. While I strongly suspect that most – if not all – municipalities use this form, it is my hope that codifying the elements of this document in statute solidifies its employment as a uniform publication for Wisconsin elections.

This portion of the bill also clarifies that an absentee ballot application is not the same thing as the witness certificate that accompanies a completed absentee ballot. There is a case to be made that Wisconsin Statutes 6.86(1) requires electors to submit an application prior to receiving an absentee ballot.<sup>1</sup> However, since 2016 when the Elections Commission issued guidance saying an application and a certificate may be the same thing, there has been robust debate about this issue. AB 201 provides much-needed legislative clarification of this point.

Related to this is the bill's requirement that a request for absentee ballot contain the voter's written signature or, if submitted online, an electronic signature verifying that it is the voter – and not someone else – requesting the ballot.

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<sup>1</sup> <https://docs.legis.wisconsin.gov/statutes/statutes/6/iv/86>

After input from one of my clerks, we inserted into the bill a requirement that online requests for absentee ballots and online voter registrations be retained in a PDF document for easy review of local clerks. Currently, the information from the online form is retained in WisVote, but local clerks who maintain their own file of absentee requests and voter registrations may prefer to retain a copy of the actual form, not just the data log in software.

AB 201 also standardizes how absentee ballots are distributed. Military and overseas voters may continue to receive ballots automatically mailed to them, but Wisconsin voters in the U.S. are required to apply for each absentee ballot they wish to receive and enclose a copy of their voter ID document. We know voter ID is both a popular and effective mechanism for ensuring election integrity. A Rasmussen poll released March 17, 2021 found that 75% of likely voters in the U.S. support voter ID laws.<sup>2</sup> Ensuring that every absentee ballot cast in Wisconsin follows a process that mirrors what voters experience during in-person voting at the polls on Election Day is vital to restoring public confidence in our elections.

When Wisconsin voters cast a ballot at the polls they show their ID, sign a poll book, and receive their ballot which they then slide into a tabulating machine when they have made their choices. It is a simple but effective process. There are no questions about different rules applying for different people. The same should be true of how we cast absentee ballots. There should be an application for each ballot, a voter ID check, a ballot and a witness certificate for each ballot returned either by mail or cast in-person at a clerk's office.

It matters that we get this process right. In my own district, an election fraud case is being prosecuted because a voter attempted to cast an absentee ballot on behalf of her deceased partner.<sup>3</sup> In Sawyer County a Florida man has been charged for requesting a Wisconsin absentee ballot last year.<sup>4</sup> He initially told the local clerk that he did not need to comply with the voter ID law.

AB 201 also evens the playing field when it comes to governmental units mailing absentee ballot applications to voters. While private entities are free to mail such applications to anyone of their choosing, the bill prohibits the state or any subdivision of the state from mailing out absentee ballot applications. Municipalities of varying sizes have widely varying budgets and it would be unfair to advantage some voters over others if only some, but not all, municipalities mass mail absentee ballot applications.

Finally, this bill requires municipal clerks to hourly post, once they have begun canvassing absentee ballots, the number of voted absentee ballots received, the number of absentee ballots counted, and the number of outstanding ballots remaining to be counted. This is similar to the

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[https://www.rasmussenreports.com/public\\_content/lifestyle/general\\_lifestyle/march\\_2021/75\\_support\\_voter\\_id\\_laws](https://www.rasmussenreports.com/public_content/lifestyle/general_lifestyle/march_2021/75_support_voter_id_laws)

<sup>3</sup> <https://www.tmj4.com/news/election-2020/cedarburg-woman-charged-with-election-fraud-accused-of-submitting-dead-partners-ballot>

<sup>4</sup> [https://www.apg-wi.com/sawyer\\_county\\_record/man-charged-with-election-fraud-in-sawyer-county-record/article\\_198ff7f8-7d2e-11eb-a4d1-3fc2bf35d223.html?fbclid=IwAR2fEiAscXIURub8AMgT8MBCz1tzVWc9FBbLgTkkoTbHNnnjIXaOita1DM](https://www.apg-wi.com/sawyer_county_record/man-charged-with-election-fraud-in-sawyer-county-record/article_198ff7f8-7d2e-11eb-a4d1-3fc2bf35d223.html?fbclid=IwAR2fEiAscXIURub8AMgT8MBCz1tzVWc9FBbLgTkkoTbHNnnjIXaOita1DM)

statutory requirement that exists for hourly posting election night returns. Without this requirement in place, it is possible that a canvass of absentee ballots could wait until the end of the canvass to report the progress of the county. It is important to note that this provision does not require the vote tallies from absentee ballots to be posted hourly, merely the progress made on the counting of those ballots.

Thank you for letting me testify today.

Dear Members of the Assembly Committee on Campaigns and Elections,

I am reaching out to you to share my concerns as a voter, a caregiver for my elderly parents and as an advocate for older adults. My name is Jill McHone and I am the Director of the Fitchburg Senior Center. I have personal experience that can be related to the proposed bills and know first hand how these bills can negatively impact older adults.

**AB 179 / SB 205 Absentee Voting in Residential Care Facilities** - My parents currently live in an assisted living facility in Dane County. I rely a great deal on the wonderful staff at this facility to assist my parents with whatever they may need. I am what is termed the "sandwich generation" caring for parents and children while working full time. If I can depend on the facilities' staff to help my parents with a simple task of obtaining an absentee ballot, it will save me a great deal of time. Furthermore, to restrict employees in facilities from helping older adults and even worse, convict them, is a crime in itself. My parents are lucky to have me assist them, but I know many of our clients that used to come to the Fitchburg Senior Center that now live in facilities do not have family support. It is critical that they are offered the assistance they may need to obtain an absentee ballot.

**AB 198 / SB 212 - Defects on Absentee Ballot Certificates** - As a Senior Center Director I have witnessed many instances when older adults have been assisted by our municipal clerks in correcting a simple error on their absentee ballot certificate in a way that is simple and quick. Mandating that clerks have to return ballots to the voter and then post notification on MyVote website is a major hurdle in ensuring the senior's ballot will ever be returned and counted. Many older adults do not have access to the internet so would not even be aware there is an issue. Furthermore if the senior receives a returned ballot, they may not have enough time to correct their mistake and mail the ballot back.

**AB 201/SB 204 - Absentee Ballot Applications** - For an older adult who is indefinitely confined, this bill makes it even more difficult to vote. For many of us that are independent, have smartphones, access to printers and copies, this is not an issue. But to mandate that someone who can not get out of their home provide a photo ID for an absentee ballot is a huge obstacle. And as stated above, many older adults do not have strong support systems in place to help assist them with meeting this type of request.

I ask that you will take my comments into consideration as you move forward. It is my hope that our State moves towards legislation that improves voter fairness and accessibility rather than limiting it, particularly for our most frail populations.

Thank you,

Jill McHone  
118 N. Prairie Street  
Stoughton, WI 53589

My name is Jordan Anderson and I am a senior at Auburndale High School. I'm a relatively young voter and am concerned with several voting bills (AB 201, AB 179) because I have a disability and am scared of how those bills may impact my ability to vote. I have Cerebral Palsy and use a motorized wheelchair to get around. I use technology to help me communicate and rely on my parents for transportation since I cannot drive myself. Some of the bills don't impact me right now, but as I get older, I will most likely need to vote absentee in the future. With that in mind, here are my specific concerns with each bill.

**AB 201** – I prefer to vote in person but, as I mentioned above, I definitely see a time when I may need to vote absentee because of my disability and this bill makes me scared that I won't have that right in the future. I also know other people with disabilities who can't drive so they have a hard time getting to the DMV to get a photo ID or to a polling place. They also have a hard time with using technology so making someone who is indefinitely confined request a ballot every time will make it a lot harder for them to vote. I think people should be allowed to receive information like an application for absentee ballots and make up their own mind if they want to send it in or not. It's just providing them with information, not telling them how to vote.

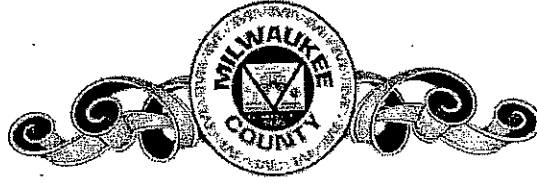
**AB 179** – I think people should be able to vote if they want to. Some people need help with that. I'm concerned that if an administrator had to let relatives know when a special voting deputy was coming, the relatives could say no because they don't agree with their loved ones political affiliations. It is still the person's vote and they should have the right to vote privately and independently.

Voting is one of the most important things to me. I ask that you please vote against these bills and to support accessible and inclusive elections. Thank you for hearing me out.

Sincerely,

Jordan Anderson





**GEORGE L. CHRISTENSON**  
MILWAUKEE COUNTY CLERK

**Assembly Committee on Campaigns and Elections**

**Public Hearing**

**Tuesday, April 27, 2021**

**Written Testimony provided by Milwaukee County Clerk George L. Christenson**

Chairwoman Brandtjen and Members of the Committee, thank you for the opportunity to submit this written testimony before your honorable body. My name is George Christenson. I am the Milwaukee County Clerk. In this capacity, I also serve as Executive Director of the Milwaukee County Election Commission, which is comprised of three Election Commissioners, and led by Elections Director Julietta Henry.

Like each of you, I swore an oath to support the Constitution of the United States, the Constitution of the State of Wisconsin, and to faithfully discharge the duties of my office, to the best of my ability. In accordance with that oath, I support all efforts to improve our democratic process, including efforts to improve the accuracy, security, transparency and accessibility of our voting processes. While I see some provisions of these bills as advancing our common goals, I'm concerned that other provisions may lead to unintended outcomes, and some could ultimately undermine the integrity of our elections.

While the Office of the County Clerk is a partisan office in the State of Wisconsin, I do not wear a partisan hat when it comes to elections administration. It is our sacred duty to remain non-partisan and carry out our charge as election officials before, during and after election day. Our job is to count the votes and whoever gets the most vote wins. If our personal choices for candidates win, we're happy – if they lose we complain. That's Democracy and that's America!

I welcome the opportunity to work bi-partisan fashion with this committee and legislative leaders to identify bonafide ways to improve upon our election processes. Thank you.

### **Assembly Bill 170 – Oppose**

Mandating that observation areas shall not be more than 3 feet from tables doesn't make practical sense in many cases. There are many variables, including the square footage and configuration of the polling location, number of voters in line, number of poll workers at a table, etc. that factor into the municipal clerks' decisions on where to place observation areas. Municipal Clerks need some latitude. Further, this bill doesn't provide a minimum distance – does this mean that observers can request to sit right at the table? Does it mean it must be exactly 3 feet under all conditions? Finally, this doesn't provide the flexibility needed under extraordinary circumstances – such as a global pandemic. Therefore, it may force local clerks into having to choose whether to violate state law or federal law because they have no latitude. During the 2020 Presidential Election recount, observers were allowed to be 3 feet from the tables – and they still complained. The current law is reasonable but I would support changing it to "...not less than 3 feet from nor more than 6 feet from the table..." I have no issues with the provision which creates Section 2. 7.41 (4m) as written.

### **Assembly Bill 178 – Oppose**

I am in opposition to this bill because, it creates additional undue burdens on municipal clerks and their staff, as well as on the voters. It requires the absentee ballot application to be separate and distinct from the certificate envelope in which voters are required to seal and submit absentee ballots. This is completely unnecessary and it attempts to fix something that is not broken. The 2020 Presidential Recount conducted in Milwaukee County proved the accuracy of the absentee voting system and identified no issues that this bill is supposedly trying to fix.

Additionally, the bill places an unnecessary burden on the voters because they are asked to do the same thing twice, which is to certify facts that they are eligible to vote in the election. When they fill out, sign and return their absentee ballot, the voters already certify they are eligible to vote in that election and there is no reason to make them do this as well when they are requesting an absentee ballot. Again, the 2020 Presidential Recount proved that there is no issue with the existing system and this bill is clear attempt to make it harder to vote via an absentee ballot.

### **Assembly Bill 179 – Oppose**

This bill provides that “an employee of a qualified retirement home or residential care facility who influences an occupant of the home or facility to apply for or not apply for an absentee ballot or cast or refrain from casting a ballot or influences an occupant’s decision for whom to cast a ballot is guilty of the Class I felony.” I am beyond appalled how alarming this provision is. It is extremely vague and possibly detrimental to those who wish to ensure that our most vulnerable citizens exercise their sacred right to vote. We must remember that caretakers in facilities play an impartial role in assisting their residents vote. I fear that many of them will not be as eager to continue to do so when they are potentially facing three and a half years in state prison, a fine up to \$10,000, or both on a technicality of a poorly through-out state election law.

As stated in my opening remarks, I do in earnest wish for a spirit of bi-partisanship as we work through these proposed election law changes. In that vein, I state that I do not object to the provision of this bill requiring that the administrator of a care facility provide notice to the relatives for each occupant who intends to vote by absentee ballot with special voting deputies of the dates and times when the deputies will be visiting the home or facility.

### **Assembly Bill 198 – Oppose**

This legislation aims to correct a problem that does not exist, with the consequence of disenfranchising the voters of Wisconsin. The current law states that if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may, but is not required to, return the ballot to the voter whenever time permits so that the voter may correct the defect. This bill disregards this safeguard which ensures the voter has time to correct their certificate and vote in the election. The bi-partisan Wisconsin Elections Commission appropriately issued guidance stating that municipal clerks may correct these certificates if the missing information is obvious (such as a known street name that is spelled incorrectly) or they know that the voter in question is a registered voter living at the address stated, and otherwise fulfills all the requirements to vote in the election. If clerks across the state didn’t perform this duty, valid, legitimate ballots could be thrown out due to so-called incomplete certificates, and eligible Wisconsin voters would be harmed when their vote is not counted for what many would consider a minor technicality. We have a responsibility to do our best to ensure all lawfully

cast ballots are counted. We should all thank the diligent clerks who once again stood at the front lines of democracy in the fall of 2020 and carried out this solemn responsibility.

### **Assembly Bill 201 – Oppose**

This bill puts additional unnecessary strains on municipal clerks in Milwaukee County and across the state of Wisconsin in the form of burdensome and unrealistic procedures, overwhelming administrative costs and threats of committing a felony in the course of doing their jobs. It will also have a negative impact on voters – particularly our senior citizens, and those living with disabilities. By eliminating the ability for voters who are indefinitely confined due to age, illness, infirmity or disability to automatically receive a ballot for each election so long as they continue returning and voting in each election, this bill will cause confusion and disenfranchise our most vulnerable populations.

This bill creates another step in the process and shifts the burden onto municipal clerks to mail separate applications for a ballot to every indefinitely confined voter for each election. This is completely unnecessary, and a terrible waste of local resources and valuable taxpayer dollars. Building in an extra step – that is having the clerks mail absentee ballot application rather than the absentee ballot itself is nothing less than voter suppression.

Finally, the bill is also contradictory, vague and Draconian. For example, it states:

“6.86 (2) (a) An elector who is indefinitely confined because of age, physical illness, or infirmity or is disabled for an indefinite period may by signing a statement to that effect require that an absentee ballot application be sent to the elector automatically for every election.”

Then states:

“6.86 (8) (a) No municipal or county clerk or municipal or county board of election commissioners, and no person acting on behalf of the commission, may send or transmit an absentee ballot application or an absentee ballot to an elector for voting in an election unless the elector applies for the application or ballot as provided by law. (b) Whoever violates par. (a) is guilty of a Class I felony.”

Therefore, for example, if a municipal clerk from Chippewa Falls, Fox Point, Sheboygan Falls, etc, inadvertently sends an absentee ballot application to someone that is no longer on the indefinitely confined list, they are guilty of Class 1 felony. This is ridiculous!

Our great State lags behind many other states that successfully utilize voting by mail – which has proven to be an efficient and secure tool in exercising the right to vote and expanding democracy. We should be working towards improving this process and not trying to dismantle it.

April 27, 2021

To: All Assembly Legislators

My name is Jayne Mullins. I am a 22 year resident of Madison and have developed strong relationships with a diverse number of individuals I am privileged to call friends. More than one of those individuals would be negatively impacted by recent proposals that threaten to disrupt their constitutional right to vote in local, state, and national elections.

I am Registering Against the following bills currently being considered by the assembly:

**AB 179 Absentee Voting in residential care facilities**

**AB 198 Defects on Absentee Ballot Certificates**

**AB 201 Absentee Ballot Applications**

As an American, a registered voter for over half a century, and a Madison city poll worker few things are more important to me than ensuring all people, including older adults like myself and people with disabilities, have that same opportunity. Please vote to support accessible and inclusive elections for your fellow citizens. Their right to vote should not be disregarded.

Sincerely,

Jayne F. Mullins  
5128 Turner Avenue  
Madison, WI 53716  
<mullinsjayne@gmail.com>

## Testimony on Voter Bills affecting Persons with Disabilities

Thank you for the opportunity to provide testimony about the bills that were the subject of the public hearing on April 27. I regret that I was unable to attend the public hearing.

My name is Brian Peters, and I work at Independence First, a Center for Independent Living located in Milwaukee. We serve the four-county metropolitan area, which has approximately a quarter of the state's population of persons with disabilities. Through my work at Independence First, and especially in our partnership with the state IRIS program, I have met many people with disabilities who find it difficult to leave their homes because of their home's inaccessibility, because of transportation barriers, or because of their disability or health conditions. Often they lack access to technology and Internet.

My wife is also a person with chronic pain issues that makes it difficult for her to leave the house. I cannot tell you how many times we hoped to go somewhere and we had to cancel because of her pain that day. For that reason, she has been receiving ballots as an indefinitely confined absentee voter.

The Wisconsin state legislature has introduced a number of election-related bills affecting the different aspects of the election process. We believe that some of the bills will make it difficult for some people with disabilities to vote, including my wife, and one may very well violate federal law.

Cumulatively, the bills create more barriers for voters with disabilities, requiring people with disabilities to jump through unnecessary hoops in order to retain the ability to vote from home. Worse yet, the bills would criminalize someone who might inadvertently violate one of the provisions, such as a helpful nursing home personal care worker who believes they are complying with federal law.

I am speaking in opposition to those two bills.

**SB 204/AB 201** creates unnecessary barriers and hoops to jump through for voters with disabilities. This removes the option for "indefinitely confined" voters to automatically receive absentee ballots; instead, those voters will automatically receive applications that they must fill out every time. "Indefinitely Confined" voters will also be required to submit proof of identification for each election in which they attempt to vote absentee. Many of those voters are older adults and/or have disabilities that have difficulty leaving their home. Those voters frequently do not have access to technology or Internet to allow them to upload documentation. To demand they do it in every election creates an insurmountable barrier for many. Election clerks in most cases will have the exact same record on file that the voter would be required to provide.

**SB 205/A179** violates federal election law requiring that staff of nursing homes assist residents if requested. This bill would make it felony for a staff member to assist a resident. It also requires that nursing homes notify relatives when special voting deputies are scheduled to visit. This is an unprecedented intrusion on a person's right to vote privately. Just because people have a disability, just because they reside in a nursing home or a group home, that does not mean they lose their right to vote without family members hovering. If there are any doubts on their competency as a voter, there is a process for that.

Those bills and others introduced take the extraordinary step of criminalizing actions that may be the result of a lack of awareness, a misunderstanding, or even an error. The felony charge could result in up to 3 ½ years in prison, and/or up to a \$10,000 fine! This is a very disproportionate response to the alleged offenses.

I urge the state legislature to consider carefully what they are truly trying to accomplish with those bills. I know that the election clerks have stated that some of the bills introduced will be burdensome with unnecessary paperwork. People with disabilities have testified in the recent Senate hearing, and at this hearing. I am hopeful that this Committee will realize the inadvertent impact on people with disabilities, on older adults, on election clerks, and on anyone who might accidentally violate the proposed laws.



I oppose AB 201 / SB 204 Absentee Ballot Applications. I have voted absentee and can't imagine not being able to register my vote.

My career has been about helping older clients. Many do not have Internet and can no longer drive. Many do not have anyone to assist them. Because of our aging population, this will only increase in numbers.

Why are politicians trying to limit the number of ballots instead of spending their time and "talents" (I use that term loosely) on something that is a problem. Overcrowding in our correctional facilities. Reduce sentencing time for offence issues for minors and provide follow-up. Spend your time coming up with solutions on these life and death issues. NOT ON SAVING YOUR JOB.

Ann Herdendorf, CTFA  
SVP, Senior Trust Officer

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Once again some Wisconsin state legislators who are supposed to "represent" the entire population are discounting the aging population. Do the sponsors of bills AB 198/SB 212 and AB 201/SB 204 understand what indefinitely confined means? For one it means a senior adult DOESN'T DRIVE ANYMORE! Once you give up driving your license it is no longer a valid ID and under these proposed bills would not be accepted for voting. To get a approved state ID senior adults have to go to the DMV. And guess what? That is very difficult, if not impossible, for someone indefinitely confined. DMV's in larger cities are only open between 8-4:45, and typically not open on weekends and in smaller communities DMV's are only open certain days of the week. In either case this makes it more difficult for a family member or neighbor to help and many senior adults will not be able to vote.

Many senior adults do not have a computer and printer, or internet access or the ability to pay for internet in their home. Other senior adults get very frustrated or confused when trying to use a computer. They want nothing to do with computers. Senior adults can get confused about the absentee voting procedures. For as often as the absentee voting process has changed the last couple decades this is not a surprise. Without an ID or computer access these bills make it more difficult to help people who have voted legally all their lives. Seniors take voting very seriously. Why can't we help them instead of punishing them? If you won't send them an absentee ballot every election then at least send senior adults a letter each year in the mail that they can sign and mail back. If the ballot is not filled out correctly what is the harm of calling them, since so many senior adults do not have computer access? Just wait until you get old and become indefinitely confined and others start to take away your privileges or put up more obstacles to discourage you.

I have never seen an actual number of fraudulent senior adult votes in Wisconsin. I believe the number of senior adults who will NOT have their votes counted if these two bills pass IS significantly higher than any alleged fraud. This is not about political affiliation but rather about preserving the opportunity for senior adults to vote. You will be depriving many good, honest, long-time voting Wisconsinites of the ability to do something that brings them great pride.

Please do not support bill AB 198/SB 212

Please do not support bill AB 201/SB 204

Jim Krueger  
Concerned WI Citizen  
1046 Chandler Lane  
Sun Prairie, WI



AB 201

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**Wisconsin State Assembly  
Committee on Campaigns and Elections**

April 27, 2021

The Opportunity Solutions Project is a non-partisan, non-profit public policy organization that works on election integrity issues in states across the country.

We support AB 201, in particular the following key provisions:

Sections 6 and 13 prohibit any municipal clerk, county clerk, county board of election commissioners, and any person acting on behalf of the Elections Commission from mailing absentee ballot applications or ballots unless the voter applies for them. A violation of this prohibition is a felony. This reform will provide both security and clarity for Wisconsin voters. The practice of mailing applications and ballots to voters who have not requested them leads to confusion and opens the door to ballot harvesting.

Wisconsin is one of several states that are considering similar legislation including Kansas, Michigan, and South Dakota. Iowa and Georgia recently enacted more robust versions, which specifically ban third parties from mailing pre-filled absentee applications to potential voters. North Carolina, Oklahoma, and Tennessee have already enacted third party bans.

Candidates and campaigns often mail out pre-filled absentee applications containing errors or addressed to ineligible voters. For example, in 2020 a third party mailed more than 500,000 absentee ballot applications to Virginia voters with incorrect information, which resulted in widespread voter confusion.<sup>1</sup> In 2018 the results of the 9<sup>th</sup> Congressional District race in North Carolina were thrown out over a ballot harvesting scandal.<sup>2</sup> In response, North Carolina passed a law prohibiting local jurisdictions from accepting absentee applications that were partially or fully filled in by someone other than the voter.<sup>3</sup>

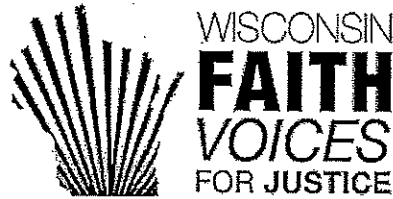
Given these recent examples, Wisconsin could consider expanding the ban to also prohibit third parties from sending out pre-filled absentee ballot applications. Overall, AB 201 is a commonsense reform and a good step forward in preventing voter confusion and increasing election security here in Wisconsin.

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<sup>1</sup>Samantha Mitchell & Heather Graf, "More than 500,000 Virginia voters were mailed absentee applications with incorrect info," WJLA (2020), <https://wjla.com/news/local/more-than-500000-virginia-voters-were-mailed-absentee-applications-with-incorrect-info>.

<sup>2</sup>Luke Decocok, "Two years after Bladen County ballot Fraud, Absentee security strengthened by new law," News Observer (2020), <https://www.newsobserver.com/news/politics-government/election/article246344405.html>.

<sup>3</sup> N.C. Gen. Stat. § 163-230.2(e).



April 26, 2021

To: The Assembly Committee on Campaigns and Elections  
Re: AB 179, AB 198, AB 201

Wisconsin Faith Voices for Justice is a state-wide interfaith education and advocacy organization. Together with the Wisconsin Council of Churches, we lead the Wisconsin Interfaith Voter Engagement Campaign. As people of faith, we are deeply committed to upholding our democracy and safeguarding every citizen's sacred right to vote.

I write today in strong opposition to AB 179, AB 198, and AB 201

These bills would seriously disenfranchise voters, particularly the elderly and disabled.

AB 179 would actually make it a felony for a nursing home employee to do their job. Under federal law, nursing home employees are required to assist and affirm residents' right to vote (<https://www.cms.gov/files/document/qso-21-02-nh.pdf>). This bill would make it a felony for an employee to comply with this federal regulation. There is absolutely no reason for this bill, other than simply to make it more difficult for people to exercise their right to vote.

The bill further requires nursing homes to inform residents' families when special voting deputies come to the facility to assist residents in voting. This is the height of paternalism. Residents of nursing homes are not, by definition, mentally incapacitated. They run their own affairs and make their own decisions every day. There is no reason for this requirement, and it opens the doors for family members to interfere with their relative's right to make their own choices in how they vote.

AB 198 makes it a felony for an election official to cure missing information on an absentee ballot envelope, such as a missing address for a witness. Currently, election officials can look up the address or call the voter for the information. Under this bill, the election official would have to return the absentee ballot to the voter and place a notification on the MyVote website. For voters with limited or no access to the internet, they would have no way of knowing that there was a problem with their ballot. With mail delivery being slow and unreliable, it is likely many

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*The mission of Wisconsin Faith Voices for Justice is to draw on the wisdom, courage, and strength of our various faith traditions to advance the common good. As progressive people of faith committed to crossing religious boundaries, we uphold the dignity of all human beings. Through advocacy, education, and partnership, we lift the voices of those who are underserved.*

voters would not receive back their ballot in time to correct the missing information and return it to the clerk's office in time for their vote to be counted, thus disenfranchising those voters.

AB 201 places unnecessary burdens on disabled and indefinitely confined voters' ability to obtain an absentee ballot. Under current law, someone who is indefinitely confined can apply once for an absentee ballot and be sent absentee ballots for all future elections until and unless they indicate they are no longer confined. They do not have to provide an ID, just a witness statement.

This bill would require these voters to reapply for an absentee ballot for each and every election, producing a valid ID every time. For voters who are elderly or disabled, who often struggle with technology and may not have ready access to a government issued ID, this presents an often-insurmountable barrier to voting. This bill further prohibits the Wisconsin Election Commission from sending out absentee ballots to all registered voters, whether or not it was requested. WEC used this strategy for the November election, with great success. Wisconsin had its highest voter turnout ever. There is no reason why this practice should not continue.

Wisconsin Faith Voices for Justice urges this Committee to reject these unnecessary, burdensome, and disenfranchising measures.

Respectfully submitted,

Rabbi Bonnie Margulis  
Executive Director

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*The mission of Wisconsin Faith Voices for Justice is to draw on the wisdom, courage, and strength of our various faith traditions to advance the common good. As progressive people of faith committed to crossing religious boundaries, we uphold the dignity of all human beings. Through advocacy, education, and partnership, we lift the voices of those who are underserved.*



Greater Wisconsin  
Agency on Aging Resources, Inc.

Date: April 27, 2021

To: Representative Brandtjen, Representative Sanfelippo, and members of the Assembly  
Committee on Campaigns and Elections

From: Janet L. Zander, Advocacy & Public Policy Coordinator

Re: **Against AB 179** relating to: absentee voting in certain residential care facilities and  
retirement homes and providing a penalty.

**Information Only AB 198** relating to: defects on absentee ballot certificates, certain  
kinds of election fraud, and providing a penalty.

**Against AB 201** relating to: absentee ballot applications, unsolicited mailing or  
transmission of absentee ballot applications and absentee ballots, canvassing absentee  
ballots, electronic voter registration, and providing a penalty.

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) is a nonprofit agency committed to supporting the successful delivery of aging programs and services in our service area consisting of 70 counties (all but Dane and Milwaukee) and 11 tribes in Wisconsin. We are one of three Area Agencies on Aging in Wisconsin. Our mission is to deliver innovative support to lead aging agencies as we work together to promote, protect, and enhance the well-being of older people in Wisconsin. There are over one million adults age 60 and older residing in our service area.

Thank you for this opportunity to share informational testimony on AB 198 and against AB 179 and AB 201. In 2020, nearly 25% of the electorate were age 65 and older<sup>1</sup>. Voting is a high priority for many older adults, resulting in older voters forming a much larger share of all voters than their share in the electorate (64% in the 2018 election)<sup>2</sup>. Despite a strong desire to vote, as people age, there are often barriers standing between their desire to vote and actually being able to vote.

Older adults are the fastest growing demographic of our state's population<sup>3</sup>. Within the older population, a large and growing percentage of people are age 85 and older. And the older people

<sup>1</sup> Cilluffo, A. & Fry, R, Pew Research Center, An Early Look at the 2020 Electorate (Jan 2019). Retrieved April 14, 2021 from <https://www.pewresearch.org/social-trends/2019/01/30/an-early-look-at-the-2020-electorate-2/>.

<sup>2</sup> Brandon, E., U.S. News, Why Older Citizens are More Likely to Vote (Oct. 2020). Retrieved April 14, 2021 from <https://money.usnews.com/money/retirement/aging/articles/why-older-citizens-are-more-likely-to-vote>.

<sup>3</sup> 1. U.S. Census Bureau (2020, June 25). 65 and Older Population Grows Rapidly as Baby Boomers Age. Retrieved March 16, 2021, from <https://www.census.gov/newsroom/pressreleases/2020/65-older-population-grows.html>.

J. L. Zander – AB 179-AB 198-AB-201 Testimony – Assembly Committee on Campaigns and Elections 4/27/21  
get, the more likely they are to have multiple chronic illnesses which can make it harder to get around. Additionally, many older adults no longer drive. Some parts of Wisconsin, particularly in the sparsely populated north, many people have a long way to go to vote and many communities do not have public transportation options widely available. For these reasons, it is not surprising that absentee voting is generally more heavily utilized by older voters.<sup>4</sup> In the November 2020 General election, two-thirds of the indefinitely confined absentee ballot applications came from voters over age 65.<sup>5</sup>

### AB 179

It is critical that all eligible voters have equal access and opportunity to participate in our electoral process, this includes voters in residential care facilities and retirement homes. The Wisconsin legislature has previously recognized that people living in residential care settings (nursing homes, community-based residential facilities [CBRFs], retirement homes, residential care apartment complexes [RCACs], and adult family homes) might have more difficulty accessing their polling place on Election day. To address the difficulties voters in care facilities may experience, laws were put in place to ensure greater access by requiring Special Voting Deputies (SVDs) to conduct in-person absentee voting. The use of SVDs to conduct absentee voting in certain facilities should in no way impede voters' rights to vote privately and independently. Under current law, once arrangements have been made for SVDs to visit a facility, notice of the date and time of the SVDs' visit is posted in the facility, provided to news media, and placed on the local municipality's website (if applicable). In addition, upon the request of a relative of an occupant of the facility, the administrator *may* notify the relative of the date/time SVDs will be conducting absentee voting and permit the relative to be present in the room where the voting is conducted. AB 179 *requires* a facility administrator to provide notice of the dates and times when SVDs will be visiting the facility to each relative of a resident for whom the facility has contact information if the resident intends to vote by absentee ballot with the SVDs. This requirement provides residents no choice of whom or if they wish to have family members observe their voting (in addition to the SVDs and approved political party observers). Though these family members may not assist the resident with voting unless requested to do so by the voter (resident), the requirement to notify family members without permission from the resident implies voters in care facilities are less than qualified voters due to their age or infirmity and is discriminating.

Additionally, AB 179 would make it a felony for any employee of a residential care facility or qualified retirement home who influences an occupant of the home/facility to apply or not apply for an absentee ballot or cast or refrain from casting a ballot. It is unclear what is meant by influencing. Is informing residents that an election is coming up and asking if they wish to vote considered influencing? Is it considered influencing to assist a resident with securing,

<sup>4</sup> Stewart, C., III. (2020, March 20). Some Demographics on Voting by Mail. Retrieved April 13, 2021, from <https://electionupdates.caltech.edu/2020/03/20/some-demographics-on-voting-by-mail/>.

<sup>5</sup> Wisconsin Elections Commission (2021, February 3), November 3, 2020 Election Data Report. Retrieved April 13, 2021, from <https://urbanmilwaukee.com/wp-content/uploads/2021/01/D.-November-2020-Election-Data-Report.pdf>.



J. L. Zander – AB 179-AB 198-AB-201 Testimony – Assembly Committee on Campaigns and Elections 4/27/21

completing, or returning a ballot if requested, even if the resident was unavailable during either of the two SVDs' scheduled visits, but still wants to vote? Who would be able to provide assistance during health outbreaks (influenza, COVID-19, etc.) when all outside visits (SVDs, family members, etc.) are restricted? How do the provisions in AB 179 align with federal law that requires Medicare and Medicaid certified long-term care facilities to affirm and support the right of residents to vote? No one, whether providing requested assistance or not, should attempt to influence an occupant's/resident's decision for whom to cast a ballot; therefore, GWAAR would support the bills provision making it a Class I felony for an employee of the home/facility to influence an occupant's *decision for whom to cast a ballot*.

Many, but not all care facilities, are eligible to have SVDs dispatched by the municipal clerk to conduct in-person absentee voting. However, even eligible facilities are at times unable to utilize SVDs. Additionally, it is unclear if facilities and clerks have been able to identify all residents/occupants who wish to vote. This raises an important question; are all care facility residents, including those in care facilities served and not served by SVDs (permanently or temporarily), receiving the assistance they need to vote? Some residents need no assistance, other residents request help from family members (unless visiting restrictions are in place), but others may not have anyone to ask for assistance. To further strengthen the support available to voters in residential care facilities, GWAAR supports training for facility staff to ensure voters' rights are protected and they receive assistance, as needed, with voter registration and voting (in-person at the polls, in-person at an alternate site, or absentee).

### AB 198

According to the Wisconsin's Elections Commission's November 3, 2020 Election Data Report, the percentage of absentee ballots returned and rejected was very small at 0.2% (4,270 ballots). Over one-third (1,475) of those absentee ballots were rejected due to insufficient certification or a compromised certificate envelope. Under current law, a municipal clerk who receives an absentee ballot with an improperly completed certificate or no certificate *may, but is not required to*, return the ballot to the voter whenever time permits so that the voter may correct the defect. While the number of returned and rejected ballots related to problems with the certification are small, they still impact thousands of voters (many of whom are likely older adults). Current law does not require municipal clerks to consistently respond to these errors leaving some voters able to fix the defects while others are not. **GWAAR appreciates that some errors are minor (part of witness address is missing, etc.) and have been easily fixed by clerks contacting voters to gather missing information without needing to return the absentee ballot. GWAAR supports a consistent approach to responding to absentee ballot certificate errors or missing certificates but is concerned about the process outlined in AB 198.**

AB 198 indicates clerks *shall* return the ballot to the elector (it would no longer be may), it also indicates the clerks *shall post a notification of the defect on the elector's voter information page on the Internet site used by electors for original registration (MyVote Wisconsin)* and further indicates *the municipal clerk may not correct a defect in the certificate*. Removing the clerk's

J. L. Zander – AB 179-AB 198-AB-201 Testimony – Assembly Committee on Campaigns and Elections 4/27/21

ability to correct even minor administrative errors (on otherwise valid ballots) and requiring notifications of defects to be posted online (instead of communicated more directly) will likely increase the number of absentee voters whose ballots are returned and rejected. Many voters are unable to use online resources and would not understand why their absentee ballots have been returned or that corrections are needed to the certificate. Additionally, there may be insufficient time to return the ballot to the voter, for the voter to learn of the defects and make corrections, and to resubmit the ballot in time to be counted. We encourage policymakers to explore alternatives that would allow clerks to consistently respond to improperly completed or missing certificate information in a manner that is timely and requires voters to be notified of the defects and corrections needed by means other than solely online.

### AB 201

AB 201 will make it more difficult for some older adults to vote. Some older indefinitely confined voters seek this designation as a means of indicating their wish to be a permanent absentee voter. Sending an absentee ballot to these voters for every election ensures they will not miss voting on issues impacting them and other citizens of their voting ward whether it is a national or local election. AB 201 proposes to eliminate the sending of absentee ballots to indefinitely confined voters and instead proposes sending them absentee ballot applications. The bill also proposes to eliminate the option for other absentee voters to apply to receive absentee ballots for all elections occurring in their voting municipality during the year of application. Under AB 201 all absentee voters other than military voters would need to complete an absentee ballot application (which would automatically be sent to indefinitely confined voters) for every separate election.

Some older voters face significant challenges completing the absentee ballot application. These challenges include, but are not limited to, not knowing how to request an absentee ballot application, not having the necessary required identification, and submitting proof of their identification. It can be difficult, particularly for those who do not drive, to get to the Department of Motor Vehicles to obtain a photo ID. Even for those who have photo IDs it can be challenging to obtain needed copies due to limited access to technology and/or limited ability. AB 201 would require indefinitely confined voters and most absentee voters to submit proof of identification for every election even if they received an absentee ballot from the municipal clerk by mail for a previous election, provided proof of identification with the previous ballot, and have not changed their name or address since providing that proof of identification.

During the COVID-19 pandemic many older voters (and voters of all ages) decided for health and safety reasons to vote by absentee ballot. For many this was a new experience, as they had always preferred to vote in-person at their local polling site. To help make this process a little easier for those who were unfamiliar, the Wisconsin Elections Commission mailed absentee ballot applications (thereby eliminating the confusion of how to apply) to all eligible voters who did not already have an absentee ballot application on file. AB 201 prohibits any municipal/county clerk or municipal/county board of election commissioners, and any person acting on

J. L. Zander – AB 179-AB 198-AB-201 Testimony – Assembly Committee on Campaigns and Elections\_4/27/21  
behalf of the Wisconsin Elections Commission from sending/transmitting an absentee ballot  
application to anyone who has not requested one.

The proposed absentee voting application process, photo ID requirements, and laws regarding  
unsolicited mailing/transmission of absentee ballot applications (regardless of the circumstances  
– including a national public health emergency) included in AB 201 will make it more difficult  
for some older absentee voters, including those who request indefinitely confined status, to vote.

Thank you for your consideration of our informational comments on AB 198 and testimony  
against AB 179 and AB 201. GWAAR supports voting processes that ensure every eligible older  
adult who wants to vote, can vote, no matter where they live or the means by which they choose  
to vote. We appreciate the interest in and efforts of policy makers to preserve, protect, and  
enhance the voting rights of older adults and people with disabilities. We look forward to  
continuing to work with you on policies that improve the quality of life of older people in  
Wisconsin.

Contact:

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Greater Wisconsin Agency on Aging Resources

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Election Commission

Commissioners  
Stephanie Findley, Chair  
Carmen C. Cabrera  
Jess Ripp

Executive Director  
Claire Woodall-Vogg

## City of Milwaukee Testimony on AB 178, AB 179 and AB 201

April 27, 2021

### Assembly Committee on Campaigns and Elections

Thank you to Rep. Brandtjen and to the committee members for the opportunity to provide testimony on AB 178, relating to applications for absentee ballots; AB 179, relating to absentee voting in certain care facilities and retirement homes; and AB 201, which makes a number of changes to the laws relating to absentee ballots in Wisconsin.

The City of Milwaukee opposes AB 178 because it is creating a solution for which there is absolutely no problem. All voters, unless voting in-person absentee in the clerk's office, have always had to have a separate application from their absentee ballot certificate envelope. The legislature, following in the footsteps of failed lawsuits in Wisconsin, now wants to create additional paperwork for municipal clerks and voters during the in-person absentee process. This bill will create additional paperwork for municipal clerks and voters during the in-person absentee process which is unnecessary, inefficient, and duplicative.

AB 179 requires the administrator of a care facility to provide notice to the relatives for each occupant who intends to vote by absentee ballot with special voting deputies of the dates and times when the deputies will be visiting the home or facility. The City of Milwaukee cautions the legislature from unnecessarily impeding upon a voter's right to a private and independent vote, especially those living in assisted living whom often remain quite independent. We do think that the SVD process should be discussed with families at intake, including when and where notices are posted. AB 179 also makes it a felony for an employee who influences an occupant of the home or facility to apply for or not apply for an absentee ballot. Creating a provision that does not allow them to influence whether or not to **apply** for an absentee ballot is extremely vague and possibly detrimental to the Special Voting Deputy program. Municipal clerks across the state rely on the employees of the facilities that we visit to provide voter registration and absentee voting information at intake, as well as to review registered voter lists for accuracy. We rely on staff to contact residents who may have moved into a new residence or a different level of care within the facility in order to update their voting information, especially if they have moved from independent living to assisted or nursing care and now need to be enrolled in the Special Voting Deputy program. This bill is tone deaf to the integral, non-partisan but administrative role that care facility staff play in helping local election officials administer the Special Voting Deputy program.

The City of Milwaukee opposes AB 201 in its entirety due to the bill's alarming administrative costs, the burdensome and unrealistic procedures placed on local election officials, and the bill's impact on voters with disabilities and voters living in poverty, both categories of whom are disproportionately voters of color. At the forefront of this bill stands the incredible administrative costs placed on local municipalities. This bill eliminates the ability for voters who are indefinitely confined due to age, illness, infirmity or disability to automatically receive a ballot for each election so long as they continue returning and voting in each election. Instead, the burden is shifted onto clerks to begin automatically mailing separate applications for a ballot to every indefinitely confined voter for each



election. The cost is unnecessary and burdensome for us to print paper applications, mail them to thousands of voters, and then hire a large data entry staff to enter the returned applications upon receipt. This cost continues into every aspect of a local municipal clerk's office, including the cost to retain and alphabetize thousands of applications for every single election, provide secure storage of these additional materials, and future destruction of these materials.

This bill forbids clerks from mailing unsolicited absentee applications, suggesting that clerks should now somehow log every phone call and request for an absentee application. Would a voter be able to request more than one application? Would each family member need to speak to a staff member in order for us to mail three applications to the same address? For my office, this would require logging thousands of phone calls each and every year, which is not only burdensome but would require an investment in new technology and additional staff. As an election administrator, AB 201's attempt to stifle my office's education and outreach to voters is incredibly frustrating and insulting; election administrators already face a mountain of misinformation being shared online, through social networks, and outside partisan groups. To enact legislation that would literally forbid me from providing correct and accurate information if it included providing an absentee application is baffling.

The process and timelines for these proposed changes are not realistic for local election officials. There are 49 days between a Spring Primary and a Spring Election. We receive absentee ballots just 27 days after the Spring Primary. In the days and weeks following the Spring Primary, clerks are conducting canvasses, entering election participation, and carrying out other administrative tasks related to the Primary. Clerks would need to immediately mail out these "automatic applications" after conducting the Spring Primary in order to have enough time for the application to reach the voter, have the voter complete it and make a new copy of their photo identification, and then enough time for the application to be returned and processed. 27 days is a very tight timeline to complete this process even when hiring additional staff to conduct the mailing and processing of incoming requests when we take into consideration the average USPS mailing time is 4-5 days each way.

Finally, this bill ignores the disproportionate impact it will have on voters with disabilities and voters living in poverty. Voters who have certified that they are indefinitely confined have done so because it is a burden for them to physically get to the polls or wait in a line at a polling place. The burden placed upon these voters to furnish their photo identification with **every single absentee application** is either being completely ignored or the authors are assuming that every voter has easy access to a photocopier or the internet within their personal residence. This bill also now requires an electronic copy of the voter's original written signature with every absentee application. Again, a voter must now own a scanner or be expected to travel outside of the home prior to every election to sign and scan an electronic signature if they wish to apply for a ballot via email. This bill would create so many hoops for our most vulnerable voters to jump through that I am concerned they will throw up their hands and give up voting entirely which I'm afraid is the intent.

The City of Milwaukee urges you to oppose AB 178, AB 179, and AB 201. Thank you for your consideration.

**For additional information and questions, please contact:**

Brenda Wood, Intergovernmental Policy Manager, City of Milwaukee  
[bwood@milwaukee.gov](mailto:bwood@milwaukee.gov); 414-339-9054

## **Public Comment**

*Public Hearing on April 27<sup>th</sup>, 2021*

Assembly Committee on Campaigns and Elections

Greetings! My name is Stephanie Birmingham and I am a resident of Sturgeon Bay, Wisconsin. I work for Options for Independent Living, located in Green Bay, Wisconsin, as Advocacy Coordinator. Options is a non-profit organization committed to empowering people with disabilities to lead independent and productive lives in their community through advocacy, the provision of information, education, technology and related services. We believe in the Independent Living Philosophy, in self-direction and that people with disabilities have the right to make informed choices for themselves.

I am grateful for the opportunity to express my concerns about:

- **Assembly Bills 179 and 201**

I believe these bills will make it harder for people like me, disabled adults, to vote. If I was before you in-person, you would be seeing a 33-year-old white, short-statured female with dark brown hair, sitting in a black power wheelchair. What you wouldn't and can't see is my reality of being a non-driver, nor my congenital bone condition, Osteogenesis Imperfecta. You also can't see that I am a Master's-level educated professional who values her civil right to participate in the democratic process. You also wouldn't see that I have voted as an indefinitely confined voter.

Assembly Bill 201 will create an undue burden and barrier to a group of individuals who already face systemic challenges to exercising the right to vote. Requiring people like me to have to continually re-apply for an absentee ballot is cumbersome, time-consuming and unnecessary.

Furthermore, the stripping of the exemption that "indefinitely confined" voters have from providing photo ID, in Assembly Bill 201, is harmful. One of the greatest barriers faced by disabled Wisconsinites, especially in rural areas, is the lack of transportation. Not only are there people with disabilities who don't drive, but getting to their local DMV is not such a simple task. And to think that there is

someone else readily available to take them is assuming that people with disabilities always have someone at-the-helm for their every need.

It's been stated by some that voting absentee should mirror what happens to in-person voting. I'd like to give you an example of what that looks like. In the Spring election of 2019, voting in-person for me meant risking my life by driving my power wheelchair down the middle of the street in order to get to my nearest polling location. Why you ask? Because the sidewalks were covered in ice and snow and the public buses didn't go close to my polling location. But I was determined and I was excited to vote for a specific candidate. I also wanted to honor the sweat, blood and tears of those who have worked tirelessly to ensure that I have the right to vote.

Lastly, I ask you to consider the paternalism that is rampant throughout Assembly Bill 179. Just because a person is living in a residential care facility or qualified retirement home, it does not mean they are incompetent or need a loved one to keep track of their voting habits. Some may feel they are 'protecting the vulnerable' from having their vote being 'exploited' through this bill. However, this is in fact a false narrative since, according to the National Council on Aging, "In almost 60% of elder abuse and neglect incidents, the perpetrator is a family member<sup>1</sup>". The Bill's requirement of a facility or retirement home's administrator to provide notice of the dates and times when special voting deputies will be visiting for the residents who intend to vote by absentee ballot with the deputies stands in stark contrast to the idea of individual freedom, choice and privacy. While there may already be a requirement in place to make publicly available the date and time that SVDs are coming to a facility, in general, to individually contact each voter intending to vote absentee with the deputy is excessive. Do your loved ones get notified when you vote? Additionally, this requirement creates further responsibility on over-worked facility administrators who already have requirements related to ensuring voter rights and voting access in their facilities.

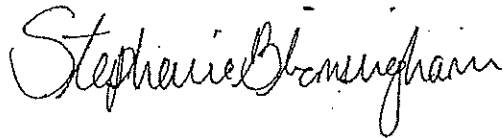
In conclusion, as an American, few things are more important to me than my right to vote and ensuring that ALL people, including people with disabilities, have that same opportunity. I invite all of you to reflect on the reality that the disability

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<sup>1</sup> Issues for Advocates. *National Council on Aging*. Accessed 26 April 2021. <https://www.ncoa.org/article/get-the-facts-on-elder-abuse>

community is the largest minority that ANYONE can become a part of at any point in their life through accident, illness, or injury. And if one is fortunate to live into older age, they will likely experience a disabling condition. Disability does not know race, gender, age, economics, political party, religion, and so on. These bills may very likely impact yourself at some point, if not now. Therefore, I implore you to please vote to support accessible and inclusive elections.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stephanie Birmingham".

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Testimony of Matt Rothschild  
Executive Director, Wisconsin Democracy Campaign  
Before the Assembly Committee on Campaigns and Elections  
**In opposition to AB 179 and AB 201**  
April 27, 2021

Chair Brandtjen and other distinguished members of the Committee,

I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign.

Now in our 26th year, the Wisconsin Democracy Campaign tracks and exposes the money in Wisconsin politics and advocates for a full range of pro-democracy reforms so that we can have a democracy where everyone has an equal voice.

I'm testifying today to oppose AB 179 and AB 201, and I'll get into the details in just a bit.

But before I do that, I want to take just a minute to discuss the context in which these anti-voter bills, and a raft of others, are circulating.

There is an effort under way, here in Wisconsin and around the country, to continue to cast doubt on the validity of the Nov. 3 election, the legitimacy of the Biden presidency, and the integrity of our elections.

In part, this is an effort to retroactively substantiate the bogus claims, repeated ad nauseam, by Donald Trump.

In part, it is an effort to feed the Republican base red meat, and on Jan. 6th, we saw how a segment of that base reacts when fed that unhealthy diet.

And in part, it is an effort to erect barriers that interfere with the freedom to vote in an attempt to gain partisan advantage.

That is why we are seeing, in 47 states including Wisconsin, bills introduced that would interfere with the freedom to vote, the most basic freedom in our democracy.

Let me be blunt: This effort is toxic to our democracy.

Now on to the specifics of the bills we oppose:

### **AB 179**

First, it is the worst kind of paternalism to require the administrator of a retirement home or residential care facility to notify relatives of the occupants as to when the special voting deputies will be coming to the facility to assist in the casting of absentee ballots. This bill assumes that everyone in a retirement home or residential care facility needs to have a family member next to them when they are voting. Most people in these homes and facilities make decisions for themselves every day of the week. They don't need to be babysat by some relative when they are doing their duty in our democracy. They shouldn't have their right to the privacy of their vote violated.

Second, this bill would also make it a felony for employees of a retirement home or residential care facility to even encourage a resident to go out and vote. Here's the language: "No employee of a qualified retirement home ... may influence an occupant of the home or facility to apply for or not apply for an absentee ballot or cast or refrain from casting a ballot." In a democracy, we all should be encouraging each other to vote! Plus, no other set of employees is prohibited from encouraging fellow citizens to vote, so this would likely violate their First Amendment and Fourteenth Amendment rights. A felony for encouraging people to vote? Come on now!

### **AB 201**

We oppose this bill for two reasons.

First, it's wrong to prohibit the Wisconsin Elections Commission or any municipal or county clerk or election board from sending out absentee ballot applications en masse to registered voters. In a democracy, we should be encouraging people to vote. The mass mailing of absentee ballot applications gives the voters the choice of how and when to vote, which ensures that voting is accessible and convenient for eligible Wisconsinites. And let's remember: The decision by the Wisconsin Elections Commission to send out absentee ballot applications en masse was made by bipartisan agreement due to the gravity of the COVID pandemic, and the Commission should retain the flexibility to do so again. We Wisconsinites should never have to choose between exercising our fundamental right to vote or risking our health or our very lives.

Second, this bill would impose a huge burden on those who are indefinitely confined. Now they would have to show an ID when they fill out an absentee ballot request, and many indefinitely confined voters don't have a voter ID, and don't have access to getting one or submitting one.

Plus, they would no longer be able to receive their absentee ballots automatically. Instead, they would need to fill out an absentee ballot request every election. Forcing indefinitely confined voters to fill out an absentee ballot request "every election" is nuts. Will they have to request an absentee ballot for a February primary and then for the spring election and then for the November election, every year?

That is why we oppose these bills. We urge you not to erect more barriers that interfere with our freedom to vote.

Thank you for considering our views.

Patricia Day - Fox Point

Testimony for Assembly Committee on Campaigns and Elections April 27<sup>th</sup> Public Hearing From Patrice Day Fox Point Wisconsin. I request that this testimony be included in the public record.

I am a 58 year old female and reside in Fox Point, WI. I am writing to ask you to oppose Assembly Bill 201 /Senate Bill 204 which would eliminate Wisconsin's "Indefinitely Confined" voter status. As a voter with a disabling health condition, it is very important to me to be a permanent absentee voter which is why I vote as an Indefinitely Confined Voter.

I became suddenly disabled in 2014 after developing post viral autoimmune diseases. One of these, dysautonomia, causes extreme fluctuations in blood pressure and heart rate, among many other symptoms. Stress is a major contributing factor causing flares and it is for this reason that I cannot appear before you today. By not allowing virtual testimony to the homebound population is certainly against the principles of the Americans with Disabilities Act when we are the population that these bills will impact most profoundly.

As there is no cure for dysautonomia, my condition is chronic. There is increasing research indicating that some "long Covid" sufferers have developed dysautonomia, so there will likely be thousands more people like me in the future in Wisconsin.

Like others with autoimmune disease I am immunocompromised. Because of this I have been housebound since 2014, only leaving the house for medical and physical therapy appointments. Among the reasons for this is that I am physically unable to stand for greater than a few minutes at a time without symptoms, including the extreme blood pressure issues mentioned earlier. Minor activity causes severe fatigue that lasts for days. Any acquired infection, viral or otherwise will exacerbate my symptoms. Prior to this I was a normal, healthy person who worked full time, socialized, and traveled internationally. My illness developed quite literally overnight.

I have voted in every election since I turned 18 years old and feel very strongly that it is every citizen's right and responsibility to do so. The emphasis is on responsibility as well as a right. On the advice of my physician, a year after I became ill, I applied for indefinite confinement so that I could continue to vote. I have received an absentee ballot automatically ever since. This is invaluable to me and stopping this would add another burden to my already challenging life by forcing me to expend my limited energy in the proposed process. Those of us who are disabled are marginalized in virtually every aspect of life; we should not lose our right as citizens of this state and country to have our say in OUR government because fate dealt us a different, difficult hand.

For people with significant health issues or due to age, providing a photo ID, just physically getting to the Division of Motor Vehicles to obtain one, can be impossible and therefore jeopardizes their ability to participate in our democracy. This is without the threat to their lives of catching Covid or other contagious illnesses by being in public. Requiring people with disabilities and the aged to upload a photo ID to a website can also be an insurmountable challenge. Not only because of the cost of the computer, scanner and internet connection but also because they may not physically be capable of getting to a location to complete the process if they lack these necessary items.

I strongly object to any attempt to disenfranchise any person who chooses to use the legal option of declaring indefinite confinement. This option was created for a reason, for people like me. Just because we have physical disabilities or are aged does not mean that we have difficulty using our minds and that our rights as citizens to vote can be discounted.

As Abraham Lincoln stated in the Gettysburg Address ours is "a government of the people, by the people, for the people", not just the able bodied but all of the people. Please do not disenfranchise my vote and those of thousands of others like me.

Due to the the harmful impact on my voting rights, and on many other voters with a disability, I ask you to oppose AB 201/SB 204.

I sincerely thank you for your time.

April 26, 2021

Dear Representative Brandtjen, Representative Sanfelippo, Representative Tusler, Representative Thiesfeldt, Representative Murphy, Representative Rozar, Representative Spreitzer, Representative Subeck, and Representative Emerson,

My name is Nancy Gapinski and I live in Glendale and am a constituent of Senator Darling and Representative Knodl. Thank you for the opportunity for me to share my concerns about and **opposition to AB 178, AB 179, and AB 201**. I worry that these bills will have unintended consequences for people with disabilities and older adults. I am concerned that the bills being discussed today, in addition to the other voting bills under consideration will collectively create insurmountable barriers to voting for many Wisconsin citizens.

I come to you with over 18 years of caregiving experience that informs my view of the challenges these bills present to people, who in many cases are already feeling overwhelmed. I was the primary caregiver for one or for a time, both of my elderly parents following health emergencies that resulted in them experiencing chronic conditions and having long-term care needs. I have a 14 year-old son with autism and I am also thinking ahead to what he will need to be an active citizen and voter.

One of the barriers I want to discuss is the requirement in **AB 201** that voters provide a photo ID with their absentee ballot request and eliminating the option for indefinitely confined voters to receive absentee ballots automatically. During my time caring for my folks, I have no idea how many hours I logged at hospitals, doctor's offices, therapy appointments and pharmacies. I do recall that in one 3-month period, I was with my mom for 33 appointments, often with small children in tow. I can also recall some long hours being logged at the DMV to obtain state IDs. I was in a position to assist them with obtaining IDs as I have a car, we live in a suburban area not too far from a DMV, and I had some flexibility in my schedule. There are many people in rural areas who live far from a DMV and lack transportation to get to one to obtain a photo ID that they could use to request an absentee ballot. For some in urban areas, getting to a DMV is also difficult.

I also worry about the provision in **AB 201** that clerks, the Election Commissioner, or other groups cannot mail absentee ballot requests to eligible voters. The ability for this to occur during a pandemic situation was especially helpful. I think that these reminders are very helpful for people with disabilities and encourage a robust democratic process. I worry that many voters will discover too late that they do not have what they need to obtain an absentee ballot and due to health reasons be unable to vote in-person.

I am concerned that **AB 179** would make it more difficult for people in nursing homes and group homes to vote.

- Some residents have communication and/or fine motor difficulties that make it difficult for them to communicate their thoughts to unfamiliar listeners. Some use

communication devices that staff assist them with setting up. In these situations, I think that even with a voting deputy present that a support person familiar with the resident's communication would be needed to assist to ensure the resident's preferences were clear. You may say that therefore a family member should be there but to be honest sometimes the people providing the daily care are more familiar with communication and helpful than family in these situations.

- I am also concerned about a resident's right to privacy and their autonomy. We live in a purple state and often a family's ability to get along is due to a compact not to discuss politics in general and elections specifically; this bill could create a lot of tension.
- At a time when nursing homes and group homes are stretched thin, it is a big burden to force them to alert all families to a voting deputy coming. Please don't legislate this. If a resident or a family has a desire to be supported in this way, they can just ask the administrator or check with their local clerk where the information about special deputies is already available. I also read that this could conflict with federal rules and the last thing we need is a lawsuit. I hate seeing taxpayer dollars go to lawsuits when it can be avoided.
- Please don't scare and threaten workers at long-term care facilities that they could go to jail when they are just trying to be helpful to residents who need to be reminded when an election is coming up or assisted with the process of requesting an absentee ballot.

I have other concerns about what is being required of voters seeking indefinitely confined status to vote absentee. I will be honest that there are so many different bills in regards to voting rights that it is confusing to know whether it is in one of the bills you are considering today. I think that asking voters to get to their doctors to sign off on statements regarding being indefinitely confined is too big of an ask and every two years is even more overwhelming. I remember a few years ago my mom had an appointment with her electro-cardiologist. We had just received the renewal card for her disabled parking placard, and I brought it along thinking, "Perfect timing. I can ask her doctor to fill this out and sign it. He knows her well." His nurse said, "no" and this response was not because they did not think my mom needed accessible parking. They knew better than most how her congestive heart failure impacted her life. He had surgically placed the pacemaker defibrillator and had just adjusted it. He saw me push her into the office in a wheelchair and heard her become winded just answering his questions and listened to her heart in constant a-fib. He just did not "feel comfortable" completing it or did not have time. Perhaps it was not billable time. I had to then help my mom follow up with her primary care physician who completed it. If a physician did not feel comfortable completing a short *renewal* form for accessible parking, how will physicians respond to signing off on documents establishing a patient as meeting the definition of "indefinitely confined?" What happens if a physician refuses to sign it? In my mom's situation, she had a strong support person with her who provided transportation and lived in close suburban proximity to the doctors. What about the people who live in rural areas and don't have transportation or the people who rely on shared rides or other public transportation? **How much running around to doctors is expected of a person seeking "indefinitely confined" status and is it reasonable to expect this?**

I am also concerned about **AB 198** regarding "Defects on Absentee Ballot Certificates." I worry that it prohibits a municipal clerk from correcting a defect on the completed absentee ballot certificate envelope. I think that sometimes a witness may forget to include their address on the envelope for the ballot. Right now the clerk may look up the address or contact the voter for information. I fear that if you make it illegal for a clerk to do that and require them to return the ballot to the voter and post a notification on the elector's voter information page on MyVote website, that votes will end up being missed as a result. Many voters don't have internet or device to access MyVote; they would be unaware of the problem, and not able to correct it. Mail is slow. There may not be time to return the ballot to the voter and for the voter to send it back to the clerk by the deadline. As a result, the vote would not be counted.

At a time in which we have a caregiver shortage and families are under stress, we should be looking at ways to make voting easier rather than harder. For these reasons, I urge you to reconsider these bills and protect the rights of Wisconsin voters. Thank you.

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Cc: Representative Dan Knodl



Dear members of the Assembly Committee on Campaigns and Elections,

On behalf of the Wisconsin Council of the Blind & Visually Impaired, I offer this testimony for the public record in opposition to AB 179, 198, and 201. The Wisconsin Council of the Blind & Visually Impaired is a private nonprofit statewide organization. Our mission is to promote the dignity and empowerment of Wisconsin's more than 100,000 people living with vision loss through policy and legislative advocacy, education, and vision rehabilitation services. It is worthy of note that the fastest growing population of people experiencing life-changing vision loss are older adults, who had no previous vision impairments, through macular degeneration, glaucoma, and retinopathy due to diabetes. This population is predicted to double in the next 30 years.

People with disabilities and older adults face both personal and systemic barriers to voting. Many of us are non-drivers and experience significant transportation challenges due to few viable and sustainable options, particularly in rural parts of the state. Limited broadband and access to affordable Internet, equipment and needed assistive technologies, in addition to non-ADA compliant websites, provide further barriers. Additionally, many older adults and people with disabilities are at increased risk for isolation, having smaller networks of friends, family, and colleagues who can assist with personal tasks like voting. Any of these barriers on their own create undue hardship for people with disabilities and older adults in obtaining mandated identification, completing paperwork, accessing the ballot, or getting to the polls. People living with blindness and vision loss face these barriers. Additionally, we run into challenges accessing our ballot at polling places when the federally mandated accessible voting equipment is not available or when we receive a paper absentee ballot, which is not ADA compliant as we cannot independently and privately read or mark it.

Many of the provisions of these bills would intensify the barriers to voting for people with disabilities and older adults. For example, the provision in AB 201 which requires anyone wishing to obtain a letter from a physician verifying the need for the indefinitely confined status, would face transportation and cost barriers. If an appointment were required for obtaining the letter, this would not be covered under private insurance or Medicaid/Medicare and would be an out-of-pocket expense. Additionally, physicians are not in the practice of verifying someone's functional status. They can provide diagnostic information only. This would leave them unable to "verify" someone's qualification for the indefinitely confined provision.

The requirement in AB 201 to share identification on a regular basis poses another barrier, whether with transportation to take the ID to the clerk or in

attempting to upload it through an online portal. Currently, technology is limited in its ability for those with blindness to upload photos without assistance.

The provisions in AB 179 to limit the support those living in care facilities could receive to assist them in voting privately and independently is of concern as well, given the large number of people with disabilities and elders who wish to continue to maintain their right to vote and who lawfully qualify to vote.

As noted above, Internet access barriers, coupled with the slow rate of mail delivery, make the provisions outlined in AB 198, limiting the ability of the municipal clerk to correct a ballot envelope, further disenfranchise voters.

Voting is a fundamental right and a cornerstone of our democracy. These bills unduly target a select segment of the population from equitable access to this fundamental right. I ask the committee to table these bills and use the power and influence of your roles as committee members to enhance access to safe, secure, private, and independent voting for all Wisconsinites.

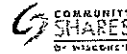
Respectfully submitted,  
Denise Jess

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April 27, 2021

To: Assembly Campaign on Campaigns and Elections  
From: Statement for public hearing on AB 170, AB 178, AB 179, AB 198 and AB 201.

The League of Women Voters of Wisconsin believes voting is a fundamental citizen right that must be guaranteed. Participating in our democracy by voting should be safe, accessible and a positive experience for all eligible Wisconsin residents. Lawmakers should avoid measures that place undue burden on the voter or erect barriers to voter participation. To that end, we have the following comments on the bills under consideration in the April 27, 2021 hearing of the Assembly Committee on Campaigns and Elections:

We oppose **AB 170**, which would make substantial changes to the current law regulating election observers. While we have no objection to most of the bill, we vigorously oppose the provision which would change the placement of the observers' station in a polling place or recount site from the current requirement that it be between three and eight feet away from the check-in and registration stations to a location "not more than three feet" away. This provision would allow observers to be too close. It fails to protect voters' private information, such as a driver license or passport number, and could cause voters and/or poll workers to feel intimidated by observers. The current minimum of three feet is close enough to facilitate all observer activity allowed under Wisconsin law, while protecting voter privacy. Our objection applies to **both** polling places and recount sites.

**We oppose AB 178.** Under this bill the WEC is required to prescribe the form and instructions of the absentee ballot application, which must be a separate and distinct form from the certificate envelope that voters must complete when they submit their absentee ballots. This is a burden, especially for voters with certain disabilities.

This bill does nothing but create more forms for the elector to complete and for clerks to review and audit. Much of the required information has already been provided by the voter in the registration process and is not necessary in the absentee voting process. Additionally, the bill stipulates that the application form must require the voter to certify facts establishing that he or she is eligible to vote -- something the voter must also do when registering to vote and when completing the certificate envelope.

All of this redundancy only creates a burden for voters and more red tape for clerks. Our elections have certainly not suffered from insufficient paperwork and red tape. This proposal offers nothing to improve election administration.

**We oppose AB 179.** This bill requires the administrator of a residential care facility or qualified retirement home to provide notice of the dates and times when special voting deputies (SVDs) will be visiting the home or facility to the relatives of each occupant who intends to cast an absentee ballot with the SVDs. The bill also provides that an employee of such a home or residential care facility who so much as encourages an occupant to apply for an absentee ballot or vote is guilty of a Class I felony.

This legislation is insulting to the occupants of such a home or facility. It assumes they cannot make independent decisions, and it could violate the privacy of their vote. Charging people with a felony for making a good faith effort to assist voters is extreme.

**We oppose AB 198,** which would require clerks to return to a voter an absentee ballot with an incomplete certificate and post a notification of the defect on the voter's information page in the voter registration database. While we could support legislation requiring clerks to inform voters of an incomplete certificate, this bill does nothing to assist voters to remedy the error or omission. It prohibits clerks from making common-sense corrections of a witness's address, something we have supported since 2016. It only gives reason to disqualify the ballots of eligible voters.

**We oppose AB 201.** Under this bill, indefinitely confined voters would have to apply for an absentee ballot for each and every election they wish to vote in, which is unnecessary and burdensome for voters. Adding to the burden, they would have to provide a picture of their photo ID with each request. The legislation stipulates that the WEC create a standard request form, including information that is already in the voter's record. Clerks would then have to confirm the completion of the form. Also, the bill treats military voters differently than overseas voters, and that would likely violate the MOVE Act and could trigger another lawsuit by the federal Department of Justice.

The bill also requires an electronic signature to be used for electronic voter registration. Establishing electronic signatures would require a costly change to the voter database. It would require new training for clerks and poll workers, and in the long run it would likely result in many rejected registrations and ballots from eligible citizens.

**We urge you to reject all of these bills,** which do nothing to improve elections and will only prevent qualified citizens from voting.

To: Representative Brandtjen, Chair, and members of the Assembly  
Committee on Campaigns and Elections  
From: Barbara Beckert, Director of External Advocacy/ Milwaukee Office Director  
Date: April 27, 2021  
Re: Testimony regarding AB 179/ SB 205, AB 198/ SB 212, AB 201/ SB 204

Chair Brandtjen and members of the Committee, thank you for the opportunity to share these comments with you regarding AB 179, AB 198, and AB 201.

Disability Rights Wisconsin (DRW) is the designated Protection and Advocacy system for Wisconsinites with disabilities. DRW is charged with protecting and enforcing the legal rights of individuals with disabilities, investigating systemic abuse and neglect, and ensuring access to supports and services.

DRW provides education, training, and assistance to individuals with disabilities to promote their full participation in the electoral process, including registering to vote, casting a vote, and accessing polling places. DRW, in partnership with BPDD, coordinates the Wisconsin Disability Vote Coalition. The Coalition is a non-partisan effort and includes many community agencies and partners. It is a non-partisan effort to help ensure full participation in the entire electoral process of voters with disabilities, including registering to vote, casting a vote, and accessing polling places. In addition, DRW staffs a Voter Hotline. In 2020, we assisted hundreds of voters through the Voter Hotline, and provided resource materials and training to thousands of individuals including voter with disabilities and older adults, service providers, family members, and community volunteers.

### **About the Disability Vote**

A significant number of Wisconsin voters have a disability. According to the American Association of People with Disabilities (AAPD), approximately 23% of the electorate in November election were individuals with some type of disability, including disabilities acquired through aging. This is a diverse group of voters. It includes people who are blind and low vision, deaf and hard of hearing, with intellectual and developmental disabilities, physical disabilities, mental health disabilities, complex medical needs, and chronic health conditions. Many older adults have disabilities acquired through aging, although they may not formally identify as a person with a disability. People with disabilities intersect all walks of life, all professions, across all races, religions, ethnicities, gender identities, sexual orientations, and socioeconomic classes.

As you consider changes to Wisconsin law, we ask you consider the barriers to voting experienced by many voters with disabilities and older adults, and come together to advance policies that support accessible and inclusive elections.

### **AB 179/ SB 205: Voting Rights for Voters in Care Facilities**

DRW is concerned about the harmful impact of AB 179/ SB 205 on voters with disabilities and older adults who live in care facilities including include nursing homes, group homes, adult family homes, and other assisted living facilities. Residents include younger people with disabilities, as well as older adults.

AB 179 would limit the voting rights of nursing home and group home residents. If staff offered to provide a resident with assistance, this would be a felony: "*No employee of a qualified retirement home ... may influence an occupant of the home or facility to apply for or not apply for an absentee ballot or cast or refrain from casting a ballot.*"

AB 179 may conflict with federal law which requires nursing homes to support and affirm the right of residents to vote, as noted in this memorandum from the Center for Medicare and Medicaid Services (CMS):

- *CMS Memorandum on Compliance with Residents' Rights Requirement related to Nursing Home Residents' Right to Vote, Center for Medicare and Medicaid Services, October 5th 2020: <https://www.cms.gov/files/document/qso-21-02-nh.pdf>*
- *October 2020 letter from CMS to nursing home residents: <https://www.cms.gov/files/document/covid-dear-nursing-home-resident-letter.pdf>*

AB 179 would elevate the importance of the Special Voting Deputy (SVD) program as the primary method for care facility residents to vote. While the Special Voting Deputy Program is a good program, it has a number of gaps:

- Many, but not all care facilities, are eligible to have SVDs dispatched by the clerk conduct in person absentee voting. Some facilities are left behind. Residents generally vote as indefinitely confined voters and rely on assistance from staff.
- SVDs make only two visits to a care facility and generally meet with residents by appointment. We have heard from advocates, residents, and staff that SVDs may miss many residents who wish to vote.
- SVDs cannot register residents to vote after the deadline for voter registration outside of the clerk's office – and one or both of their visits may not occur until after the deadline has passed. This leaves many residents

without an option to register to vote and highlights the need for facility staff to offer this assistance.

- SVDs only visit a facility if at least 5 residents are registered to vote and at least one absentee ballot request is on file – but there is no safeguard in place to ensure residents are provided with the option to register to vote or to request an absentee ballot. This is a chicken and egg situation. If staff are not expected to notify residents of their right to register to vote and to complete an absentee ballot application, a facility will not be visited by SVDs.
- The current statute indicates that the second SVD visit can take place as late as the Monday before the election, and clerks cannot mail out absentee ballots to residents until that second visit occurs. This has the potential to disenfranchise some care facility voters who have a request on file, but do not meet with the SVDs during the limited time they are on site.

In addition, there is no process in place to ensure that clerks have the most current information about all eligible care facilities and that care facility administrators are educated about the SVD program. The *Wisconsin Election Commission November 3<sup>rd</sup> Data Report* indicates that in November 2020, 22,303 active registered voters who previously were served by SVDs requested a by-mail absentee ballot. This compared with November 2016, when the special Voting Deputy population size was 21,701.

The table below lists the number of care facilities and beds in Wisconsin, as of February 9<sup>th</sup>, 2021, that may be eligible for SVDs. Although not all residents may be eligible to vote, the presence of over 87,000 beds suggests there is a significant gap as compared to the number of residents served by SVDs – 21,701 in 2016. Wisconsin can and must do more to support the right of care facility residents to vote.

Facility Type	Facilities	Beds
Nursing Home	360	28,057
CBRF	1,655	34,375
AFH	2,137	8,254
RCAC	349	16,598

SVDs should be an option for supporting residents with voting, but not the only option. Limiting voting to assistance from SVDs would leave behind some residents of care facilities – we don't know how many, but believe the number is significant. Even if SVDs visit a facility, they will not see all eligible residents.

According to the LRB analysis, AB 179 "provides that an employee of a qualified retirement home or residential care facility who influences an occupant of the home or facility to apply for or not apply for an absentee ballot or cast or refrain from casting a ballot or influences an occupant's decision for whom to cast a ballot is guilty of the Class I felony."

We are concerned that this bill would criminalize the facility staffs' mandated responsibility per CMS to support and affirm the right of residents to vote. Following the November election, and leading up to the April 2021 election, DRW was contacted by facility staff who have become fearful of assisting residents with anything related to voting. For example, one Jefferson County aid was asked to witness a resident's absentee ballot and was very anxious about doing so. She required repeated reassurance that this was allowed by Wisconsin law. Several facilities told us of receiving threatening calls from family members who did not want a resident to vote, but were not the guardian and did not legally have the authority to limit the right of a resident who wished to vote. If offering residents the opportunity to request an absentee ballot becomes a felony, many residents will be disenfranchised and staff will be fearful of providing any assistance.

It is important that care facility staff can proactively let residents know that an election is coming up and determine if they want to register to vote or request an absentee ballot. Staff should have the duty to let residents know that an election is coming up, and that they have the option of requesting assistance from staff. If requested by the voter, staff can assist them in registering to vote, requesting an absentee ballot, filling out a mail in ballot or accompany them to the polling place.

A voter is allowed to have someone assist them with completing their ballot, but the ballot must be completed as directed by the voter, and the assistor must be recorded. It is currently illegal for a staff person, a family member, guardian or anyone else to complete a ballot not as directed by the voter. In addition, staff cannot answer questions about the candidates, questions about any political platforms, and must keep votes confidential. It is important that staff as well as voters understand the law and uphold the right of the voter to make their own choices. Care facility staff who assist voters should have the opportunity to participate in training on voter rights, voting regulations and timelines, and the specifics of the process for providing assistance and for witnessing a ballot.

Finally, AB 179/ SB 205 *requires* a facility administrator to provide notice of the dates and times when SVDs will be visiting the facility to each relative of a resident for whom the facility has contact information if the resident intends to



vote by absentee ballot with the SVDs. This requirement does not provide residents with the choice of whom or if they wish to have family members observe their voting (in addition to the SVDs and approved political party observers). Though these family members may not assist the resident with voting unless requested to do so by the voter (resident), the requirement to notify family members without permission from the resident implies voters in care facilities are less than qualified voters due to their age or disability and is discriminatory.

Wisconsinites should not lose their right to vote privately and independently because they live in a group home or nursing home.

For these reasons, we ask you to oppose AB 179/ SB 205.

#### **AB 198/ SB 212**

DRW is concerned about the harmful impact of AB 198/ SB 212 on voters with disabilities and older adults. This bill would prohibit a municipal clerk from correcting a defect on the completed absentee ballot certificate envelope. If a certificate envelope has a defect, the clerk must return the ballot to the elector and post a notification of the defect on the elector's voter information page on the MyVote website.

DRW operates a voter hotline which is open all year round. Last year, we assisted hundreds of voters with disabilities and older adults, the majority of whom were voting absentee. The voters we assist want to do the right thing and very much want to follow the law, but many are struggling to navigate a complex process.

We heard from many voters who were anxious about how to correctly complete the application form for an absentee ballot, as well as the absentee ballot certificate envelope. The certificate envelope has very small print, is crowded, and **is not accessible** for many voters who have some vision loss. It's not a surprise that there are often mistakes in completing it correctly.

Based on the experience of the voters that we assist, it has been very helpful for clerks to correct a defect on the absentee ballot certificate envelope, such as completing the witness address, and honoring the voter's intent. If this process changes and clerk must return the ballot to the voter, it is highly probable that there will not be enough time for the voter to correct the problem and return the ballot. Posting information on MyVote would result in inequitable access as so many Wisconsinites do not have ready access to the internet and to a computer or smart

phone. The majority of voters who contact us for assistance do not have such access. We are concerned proposed changes would disenfranchise many voters.

Rather than restricting the clerk from correcting defects, we ask policy makers to look at the root cause of these defects. What actions can be taken to reduce the number of defects on the absentee ballot certificate envelope? First and foremost, this should include asking the WEC to redesign the certificate envelope with guidance from national usability and accessibility experts. More public education is also important, as is doing usability testing on the instructions for absentee voters, and including older adults and voters with disabilities in the usability testing.

For these reasons, we ask you to oppose AB 198/ SB 212, and to instead look at opportunities to have election officials redesign the absentee ballot certificate envelope with guidance from design and usability experts.

### **AB 201/ SB 204: Why Wisconsin's Indefinitely Confined Voter Provision Is Essential**

DRW opposes AB 201/ SB 204 because we are concerned it will make it harder to vote for many voters with disabilities and older adults and may disenfranchise voters. This proposal:

- Eliminates the option for indefinitely confined voters to receive absentee ballots automatically for every election.
- Would require all indefinitely confined voters to provide a photo ID with their absentee ballot request.

Wisconsin's indefinitely confined statute has been on the books for decades, and provides an important safeguard to ensure many disabled, elderly and chronically ill voters can cast a ballot. This provision is important to many **individuals for whom, due to his or her own age, illness, or disability, either permanent or intermittent, leaving their residence imposes a burden.** An indefinitely confined voter can reside in their own home, apartment, nursing home, or other care facility. This designation allows these voters to be permanent absentee voters, so they will not miss the opportunity to vote in every election. An indefinitely confined voter is not required to provide a copy of photo ID. Instead, the witness' signature on the Absentee Ballot Certificate Envelope satisfies the photo ID requirement. The voter registration process also requires the voter to prove their identity with proof of residency.

In our work assisting voters with disabilities and caregivers, we have seen the importance of the indefinitely confined provision. It is understandable that usage increased this year. Many individuals did not feel safe voting in person, and many isolated at home, because of their high vulnerability to COVID 19.

This provision is very important to many voters with disabilities, older adults, and voters with serious illness who live in the community and have difficulty voting at their polling place, and for care facility residents. Wisconsin's Indefinitely Confined provision allows these voters to have an absentee ballot sent to them for every election, until they no longer need it, or do not return the ballot.

Many indefinitely confined voters have significant disabilities and/or disabling medical conditions, but live in the community. As compared to other states, Wisconsin has a relatively small number of older adults and people who live in nursing homes, and a high percentage who receive long term care in the community. For example, over 75,000 Wisconsinites are enrolled in Family Care, Partnership and IRIS and **all are at a nursing home level of care**, with most living in the community. It's not surprising that many of these long term care members designate as indefinitely confined voters. According to WEC November 2020 Election Data Report, approximately two-thirds of indefinitely confined applications came from voters over age 65 (page 17).

The voters we assisted rely on the indefinitely confined provision, not because they do not want to provide a photo ID, but because of their disability, illness, or age. In some cases, these voters have a photo ID: the WEC November 2020 Election Data Report indicates that 80% of all indefinitely confined voters had a photo ID on file or had shown their ID sometimes in the past four years when they voted in person. Voters may be unable to upload a photo ID because of limited access to technology (smartphone, digital camera, scanner, or photocopying machine) or limited ability to do so. In addition, Wisconsin's MyVote system does not currently provide the option for an Indefinitely Confined Voter to upload photo ID. We recommend this feature be added as an option – not as a requirement.

**Difficulty Obtaining Photo ID.** Obtaining a copy of a photo ID can also be very difficult for many voters with disabilities; a high percentage are non-drivers with limited access to transportation. Many have difficulty leaving their home due to health status or disability. For example, on Election Day in April 2021, the DRW Hotline received a call regarding a man in his 50s who is enrolled in Family Care. He wanted to vote but had been without a photo ID for three years. He had asked his Family Care team numerous times to provide assistance. As a non-driver, he needed transportation to DMV as well as a care team member to go in with him to help him complete the paperwork. It is very disturbing that this man, and many other prospective voters have such a difficult time obtaining a photo ID for voting and are disenfranchised. In addition, this voter's experience points out the lack of awareness of the Indefinitely Confined

voter provision. This individual could have voted absentee as an Indefinitely Confined voter. See the appendix of this testimony for other examples related to photo ID.

Because of these significant barriers, Wisconsin's Indefinitely Confined provision allows these voters the option to satisfy the photo ID requirement through the witness' signature on their absentee ballot certificate envelope. The requirement to show proof of residency when registering is an additional safeguard for the voter to prove who they are.

When the legislature passed Photo ID Law in 2011, they recognized this need and exempted permanent absentee voters from having to provide a copy of their photo ID. The Indefinitely Confined option is vital to preserving this constitutional right for many Wisconsinites who are disabled, elderly, or ill. These provisions ensure that these voters are not excluded and discriminated against and can participate in the electoral process. We received many calls from older adults and people with disabilities requesting assistance with requesting an absentee ballot and this provision was very important to them.

In addition, under AB 201/ SB 204 all absentee voters other than military voters would need to complete an absentee ballot application (which would automatically be sent to indefinitely confined voters) for every separate election. Many indefinitely confined face significant disability related challenges completing the absentee ballot application. For example, voters who are blind or have vision loss, must find a trusted person to complete the application for them as it is not accessible. Individuals with disabilities which restrict their ability write would also need to find a trusted assistor. Other challenges may include, but are not limited to, not having the access to technology or ability to submit submit proof of their identification.

**Recommendation to Update and Clarify Indefinitely Confined Statute.**

Based on our work assisting voters, we believe it would be helpful to update and clarify the statutes regarding Indefinitely Confined Voter. We have found that voters are often confused by this designation, and want to be sure they are eligible for this status. While there may be voters who are using it inappropriately, in our experience there are also voters who need to utilize this status and are not aware of it, or who are confused by the language and want to better understand it.

We would like to work with you to update the statute, and also work with election officials to educate the public and provide a better understanding of the Indefinitely Confined provision and who should be utilizing it. I want to thank

Senator Bernier for her sensitivity to the importance of this provision to voters with disabilities. DRW appreciates the good discussion with Senator Bernier about the alternative language we have developed in response to her interest. We would welcome the chance to share it with other legislators.

AB 201/ SB 204 would also prohibit the WI Election Commission, clerks, and other groups from sending absentee ballot applications to all eligible voters; the bill makes it a felony to mail absentee ballot applications to anyone who has not requested one. DRW has heard from hundreds of voters how helpful it was for them to receive an absentee ballot application in the mail from the WEC mailing or from their local clerk. Many of the voters we assist do not have access to the internet and/or to a smart phone or computer, so they cannot request an absentee ballot on My Vote. Many have limited options to get out and do not have ready access to an absentee ballot application. The mailings from the WEC and from local clerks provided them with equitable access to make a choice as to whether or not they wanted to vote absentee. We are concerned that AB 201 would prohibit this practice which has been so helpful to many Wisconsin voters

Based on these concerns, we ask you to oppose AB 201/ SB 204.

Thank you for your consideration of our comments and please contact us with any questions. We welcome the opportunity to work with you to improve the accessibility of our elections, and ensure that the voters with disabilities and older adults have the opportunity to fully exercise their right to vote and fulfill their civic duty.

## **APPENDIX**

### **Examples of Indefinitely Confined Voters**

Wisconsin's Indefinitely Confined provision allows voters to self-certify that they are *"indefinitely confined because of age, illness, infirmity, or disability and request absentee ballots be sent to me automatically until I am no longer confined or I fail to return a ballot."* These are some examples of disabled Wisconsin voters who rely on the Indefinitely Confined provision to exercise their right to vote.

#### **39 year old on Dialysis**

D. has been voting as an IC absentee voter since 2016. When D. went online to get her absentee ballot in 2016, she was in the hospital. She knew that she would need to always ask for one. She saw online that Indefinitely Confined was an option (which she didn't know about prior to this) and realized this was an appropriate option for her. D. is a patient on dialysis. Because of her struggles with dialysis, she's begun having lots of other health issues, including skin lesions, mobility difficulties, and stroke. Dee uses a walker most of the time. She estimates that she is ambulatory with her walker about 80% of the time. D. says that even leaving the house is difficult to do. In public places, people will unintentionally bump or crowd her. This makes her very nervous and anxious about even going places.

#### **28 year old with multiple disabilities**

J. lives with his parents and family. His parents serve as his guardian. J. needs support with reading and completing his ballot. With all of the commotion at the polling place, this is more easily done at home for him. There is less stress and confusion if he is able to vote at home. Although polling places are required to be ADA compliant, physical accessibility can be difficult for J. as well, so voting at home alleviates these problems. When J. went to court for his guardianship hearing, it was very important to him and to his family that he retain his right to vote. The GAL was initially not very supportive of this, but his parents worked with the GAL to help her understand that J. understood and could participate in the voting process. When J. turned 18, he went with his parents to the Municipal Clerk's office to register. Upon registering, they requested Indefinitely Confined voter status right away. J. has always been an indefinitely confined voter.

#### **60 year old Voter with MS**

I am a 60-year old person who has been living with relapsing-remitting multiple sclerosis, a progressive, central nervous system disease, since 2004. My physical balance and walking has declined to the point that I have needed to use assistive devices, including wheelchairs sometimes, for the past few years. Although I am able to live independently, I have to use adaptive modifications and hired assistance to be able to have many household needs and activities taken care of. I became indefinitely confined in the spring of 2020, realizing that my health condition places me in the high-risk group for covid-19. Being able to vote from home not only removed the burden of wondering about, and trying to figure out how I would navigate the mobility issues and possible barriers involved with delivering my ballot to the ballot box, it also removed the risk that I would have endured by potentially exposing myself to covid-19. To be able to vote this way is priceless—

without this means, many of us would not be able to have our voices--through our votes-- count.

### **Voter with MS, in her 60's**

K is a mother, wife, and taxpayer. She loved her job but had to stop working over 20 years ago as she was increasingly disabled by MS. She lives at home but is at a nursing home level of care and enrolled in Wisconsin's IRIS program which provides long term care supports in the community. She spends her days in bed and needs assistance with all activities of daily living. Leaving her home to go to an essential medical appointment requires extensive planning and coordination, because of her level of disability, and frailty, and accessibility needs. Leaving her home to visit with family and friends is for the most part an unattainable dream.

She has voted as an indefinitely confined voter for ten years and takes pride in being a good citizen and regular voter. Because of her disability, her physical ability to write is very limited. She is not able to complete forms by herself either by hand or on the computer. The proposed requirements for her as an indefinitely confined voters to go somewhere to take an oath, and to see her doctor to have him verify her status would be major barriers. Having to resubmit the request every year and repeatedly provide a copy of photo ID would also be extremely difficult.

### **Photo ID**

These are examples of calls we received regarding photo ID questions and barriers.

- Group home operator called to request guidance on how to support her residents to vote. None of them have photo IDs. She had never heard of Special Voting Deputies. We explained about how to obtain photo ID. Since the election was only a week away, and COVID restricted travel, she decided not to take action. Waukesha County
- "My brother lived in Monroe County. He wanted to vote but did not have a photo ID. He was wheelchair bound and needed a medical van or cab. I asked his social worker to get him to DMV. She never would help get his ID. He had MS and couldn't be he the heat or cold. His last year of his life he was bedridden and still wanted to vote..... but could not vote because he didn't have a photo ID." Monroe County
- Caller wants to vote but does not have a current photo ID. He wanted a ride to get to the DMV but needs an accessible vehicle because he used a powerchair. I told him about the new south side DMV location. He was very excited because he could get there himself using his powerchair and wouldn't have to try to get transportation which can be difficult to schedule. Madison
- My son who is 18 with autism would like to vote. He does not have a WI ID. Can he still vote?
- Older adult did not have current photo ID. She cast a provisional ballot. She needed transportation and someone to assist her to go to DMV to get a photo ID and then to the municipal clerks office to show her ID, and cure her provisional ballot. She had a mobility disability and needed someone to assist her with going into the DMV and clerk's office. Milwaukee
- The caller wants to register to vote but their state ID has their old address. The Hotline voter could register if they had proof of residency (such as utility bill) for

the new address. The state ID could be used for proof of identity for voting, even if it does not have current address. Stevens Point

- Voter is worried that her ID does not have a star and that she will not be able to vote.
- Staff from long term care facility in Chippewa Falls. Resident wants to vote and does not have photo ID. Wanted to understand the options.
- Staff from nursing home wanted guidance. Most of our residents do not have photo ID and they want to vote. What do we do? Niagara
- Caller reported that her brother has been without photo ID for over three years. He is enrolled in Family Care and has repeatedly asked Family Care to have someone help him get one. He has no transportation and also needs help completing the forms at DMV. Milwaukee County





City of Wauwatosa  
Senior Commission  
7725 W. North Avenue  
Wauwatosa, WI 53213



April 20, 2021

Senator Dale Kooyenga  
Room 310 South  
State Capitol  
PO Box 7882  
Madison, WI 53707

Dear Senator Kooyenga,

The Wauwatosa Senior Commission is a citizen board appointed to advocate for the older adults of the City of Wauwatosa. We are writing to express our strong opposition to a host of bills related to voting that have been introduced in the Senate because they place undue burden on older adults and their right to vote. Specifically, we are opposed to Senate Bills 203, 204, 205, 206, 209, 212 and 214. These bills all present unnecessary barriers to older adults and their right to vote, and do not address any identifiable problems or long-term voting issues. In fact, these bills create a host of issues, which suppress voting rights by:

- Limiting access to absentee ballots requiring medically vulnerable individuals to reaffirm their indefinitely confined status every two years. They would need to seek a healthcare professional's certification of their need for this status, creating a barrier for senior and other individuals who, by definition, have a difficult time getting out into the community. Additionally, this change may present an economic visit by requiring an otherwise unnecessary healthcare visit.
- Limiting access to absentee ballots by making medically vulnerable individuals potentially choose between their right to vote, and their right to avoid potentially deadly communicable disease exposure.
- Limiting voting access by severely regulating who is allowed to help individuals with the delivery of a completed absentee ballot. While the exception is made for those without immediate family members to assist with ballot delivery, even that exception is rife with barriers by requiring written registration of the deliverer and allowing that person to only assist one individual.
- Limiting voting access by restricting the number of ballot drop boxes to one per municipality, which must be adjacent to the clerk's office. The City of


Wauwatosa invested in two drop boxes in 2020, one of which is located at Hart Park Senior Center. This drop box proved to be very popular. The proposal to restrict ballot drop boxes makes null the recent investment the City made to increase accessibility. It eliminates choice for Wauwatosa residents. This is unacceptable.

- Limiting the accessibility of absentee ballots by requiring indefinitely confined voters to provide a photo ID, as well as no longer allowing automatic receipt of absentee ballots, and instead needing to request one each election. The addition of both of these layers are cumbersome to those who most need accommodation in order to exercise the right to vote.
- No longer allowing clerks simply to rectify a situation where information is missing from an absentee ballot. Instead, the clerk would have to return the incomplete ballot to the resident and post the follow up details needed to remedy the situation on MyVoteWisconsin. That would create a glaring equity issue. Older adults who are not comfortable using technology, or residents who do not have the income to support the necessary technology and internet access, are completely cut off from the opportunity to complete and submit their ballot.
- Combining polling places in a municipality with fewer than 35,000 residents with an adjacent municipality with a population under 35,000 creates accessibility issues. While Wauwatosa is larger and would not be subject to this change, we feel strongly that this will adversely affect older adults living in areas with smaller populations by magnifying an already pervasive barrier of transportation access.
- Limiting the rights of voters living in residential facilities and retirement homes by making it a felony for them to receive any assistance from staff in completing their ballots. Janet Ransdell, a member of our Senior Commission, shares that in her 20 years of experience working with seniors in various settings, "Voting is a priority for this population. Assistance with voting for those who struggle with low vision or other ailments that may prevent them from voting independently is met with gratitude. Providing assistance and accessibility to voting for seniors is integral in terms of quality of life. Our veterans and others in this population put tremendous value on their freedom to vote. We have honored our seniors' right to vote by offering assistance with absentee voting, working with special voting deputies to offer in-person voting in senior facilities and communities, witnessing mail-in absentee ballots, and driving residents to polls. I urge all involved to give the greatest generation the respect it deserves by not creating any more barriers to the voting process."

In partnership with other city entities, the Senior Commission recently helped create a successful voting assistance program for older adults who need a hand applying for an absentee ballot, registering to vote, or obtaining a witness signature. This program proved to be very successful and is an important way our community helps support the

needs of older adults. The feedback we received is that older adults appreciate more assistance in order to guarantee the right to vote. The last thing citizens need is more obstacles in exercising this fundamental right. This package of bills related to voting is an assault on voting rights, which has an enormously negative impact on older adults and individuals with disabilities. We strongly oppose this package, and request that you oppose these bills and support the voting rights of your constituents.

Sincerely,

A handwritten signature in cursive script that reads "Dain Maddox".

Dain Maddox  
Chair, Wauwatosa Senior Commission

Cc: Wauwatosa Mayor Dennis McBride, Wauwatosa Common Council Members, Senator Tammy Baldwin, Senator Ron Johnson, Rep. Scott Fitzgerald

**Testimony of Jay Heck, Executive Director, Common Cause Wisconsin**

**Wisconsin Assembly Committee on Campaigns and Elections**

**April 27, 2021**

**In Opposition to Assembly Bill 178, Assembly Bill 179,  
Assembly Bill 198, Assembly Bill 201**

Common Cause in Wisconsin (CC/WI) is one of the state's largest non-partisan political reform advocacy organizations with more than 8,000 members and activists residing in every county of the state. We have been active in Wisconsin since our founding in 1970.

We oppose four of the measures being considered by this Assembly Committee today and urge members of this committee to vote against their passage.

All four of these measures would make it more difficult and burdensome for Wisconsinites to be able to cast a ballot during an election. All are extremely partisan and were devised exclusively by members of one political party to gain partisan advantage in elections and without any consultation with members of other political parties or with nonpartisan election advocacy organizations such as Common Cause Wisconsin.

Specifically, we oppose:

**Assembly Bill 178:** This measure would require the Wisconsin Election Commission to create a standard absentee ballot application that must contain certain questions specified by the bill, and must be completed by all absentee voters, including in-person absentee (early) voters. The only people exempt from the new application would be those being served by special voting deputies at certain retirement or residential care homes. The standard application the bill would require all other absentee voters, whether requesting the ballot by mail or in person, to complete must include: the voter's municipality and county of residence; the voter's name, date of birth, and contact information, including as applicable their telephone number, fax number, and electronic mail address; the street address of the voter's legal voting residence; the election at which the voter intends to vote absentee; whether the voter is a military or overseas elector; the voter's confidential identification serial number if the elector has obtained a confidential registration; the lawful method by which the voter prefers to receive the absentee ballot; and whether the elector is hospitalized.

- o While making election administration processes standardized is generally a good idea, this one is not. It makes in-person absentee voters fill out an application for an absentee ballot even though they are present to vote by absentee ballot to verify that they want to indeed vote with an absentee ballot. It is burdensome work for the clerks and does nothing to improve elections. This measure is a response to some who unreasonably claim the envelope where in-person absentee voters place their ballots (and then seal and sign) cannot "double" as a request or application for a ballot. This current system is incredibly streamlined and secure.

**Assembly Bill 179:** This measure would limit voting rights of nursing home and group home residents. It may conflict with federal law which requires that nursing homes support the right of residents to vote. Under this measure, if staff offered to provide a resident with assistance, this would be a felony crime. This bill would require the administrator of the facility to notify relatives of the residents as to when the special voting deputies will be coming to the facility to assist in the casting of absentee ballots.

- o Most people in these homes and facilities make decisions for themselves every day of the week. They do not need a relative next to them when they are voting and fulfilling their duty in our democracy. They should not have their right to the privacy of their vote violated. This bill goes so far as to make it illegal for employees of a retirement home or residential care facility to even encourage a resident to vote.

**Assembly Bill 198:** This measure would require the clerk to mail the defective ballot envelope back to the voter, require the clerk to put a notice of the defect on the voter's voter information page in MyVote, and prohibit a municipal clerk from correcting a defect on the completed absentee ballot certificate envelope. Specifically, the bill would create new felonies in the list of election frauds to punish election officials.

- o This bill addresses how clerks should act when a voter returns a completed absentee ballot with a defect in the ballot certificate. If a certificate envelope has a defect, the clerk must return the ballot to the elector and post a notification of the defect on the elector's voter information page on MyVote website. However, not all voters can access MyVote and they would be unaware of the problem to make corrections. Additionally, the bill does not make clear if the voter will know the notice has been put in their voter information page on MyVote unless they happen to check the page. Existing law does not require notice of defects; however, the Wisconsin Election Commission guidance encourages clerks to contact the voter directly.
- o Mailing a ballot back to the voter within only a few days until Election Day will guarantee the ballot envelope is not returned corrected in time for the vote to be counted. The mail can be slow. There may not be time to return the ballot to the voter and for the voter to send it back, so the vote may not be counted.
- o Currently the clerk may look up the address or contact the voter for information. Existing law allows the clerk to mail the ballot back if there is time for the voter to correct the defect. This is a bad bill in that it will result in many ballots being tossed for information missing on the envelope. AND the bill does not allow for correction of the envelope except by the voter when the ballot and envelope is returned by mail. It does not seem to allow the clerk alternate ways for corrections, like a phone call and a visit to the clerk's office by the voter. While a correction or cure process for absentee ballot envelopes is something that the legislature should take up, it should not be in the form of this bill. It should give clear instructions so that clerks and voters are able to correct mistakes to ensure all ballots cast are counted.

**Assembly Bill 201:** This measure would no longer allow voters who are indefinitely confined or overseas to receive absentee ballots automatically. Instead, they would need to fill out an

absentee ballot request for every election and they would need to show a proscribed photo ID. In addition, this bill would prohibit the Wisconsin Elections Commission (as well as municipal or county clerk or local elections board) from sending absentee ballot applications *en masse*, as it did in 2020 to 2.7 million Wisconsin voters.

- o Forcing indefinitely confined voters to fill out an absentee ballot request for every election is extremely burdensome. Wisconsin has multiple elections every year. The mass mailing of absentee ballot applications gives the voters the choice about how and when they vote. Election administrators should have the authority and flexibility to make voting easier by being able to mail absentee ballot applications.

In sum, Common Cause Wisconsin urges a vote in opposition to all four of these measures in the Committee and beyond. Thank you for your respectful consideration of our views.

**ROCK COUNTY, WISCONSIN**

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Janesville, WI 53545



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April 27, 2021

*Testimony of Lisa Tollefson, Rock County Clerk*

*Assembly Committee on Campaigns and Elections – Public Hearing*

**Assembly Bill 178 - Relating to applications for absentee ballots**

**Assembly Bill 201 - Relating to absentee ballot applications, unsolicited mailing or transmission of absentee ballot applications and absentee ballots, canvassing absentee ballots, electronic voter registration, and providing a penalty – OPPOSE**

***Some indefinitely confined electors are required to submit photo ID***

In this bill, electors living in residential care facilities are not required to submit photo ID. Anyone else claiming indefinitely confined are required to submit photo ID. Not all indefinitely confined electors are able to go to the DMV to get an ID. This bill may disenfranchise those electors who are most vulnerable from being able to vote.

***Prohibits sending of absentee applications by election officials***

This bill prohibits an election official from sending or transmitting an absentee ballot application to an elector for voting unless the elector applies for the application. And if the election official sends an application without the elector applying for the application, it is a Class I felony.

Let's run through this again. Since a clerk would never want to be accused of a felony, the clerk will need to protect themselves by creating an additional form for the voter to request an absentee application. Not to request the ballot just to request the application. The voter will need to return the request to get the application. Then the clerk will send the absentee application. The elector returns the absentee applications. Then the clerk sends the absentee ballot. The voter returns the absentee ballot. This is waste of taxpayer dollars.

But don't worry this bill only creates a felony if an election official sends out unsolicited absentee applications. Third party groups can send out as many as they want. Since the clerk's address mailing address is printed on the third party mailings, clerks are often accused of sending the mailing.

***Hourly posting of absentee ballots being canvassed***

1,850 municipal clerks will be required at each election to post hourly the number absentee ballots mailed, returned, counted and remaining to be counted. My concerns are that not all municipalities have websites. Some of those who do have websites do not have direct access to post to their websites. They send the posting to their provider hoping it will post quickly.

The Wisconsin Elections Commission already posts the entire states absentee information on their website. To find this information click Statistics on the left side bar and scroll down to Absentee Ballot Report. This lists the number of absentee ballot requested, send, returned and the number that were voted in-person. An hourly posting may be easier for large municipalities which are processing absentee ballots into separate tabulators from where voters are entering their in-person Election Day ballots. Most municipalities will do an hourly check to make sure their counts are accurate. But if they only have one tabulator they may not have an exact number of how many are in-person and how many are absentee.

***Separate absentee application and certificate envelope for in-person voting***

There is no added value to having a separate absentee application and certificate envelope for in-person absentee voting. They both contain similar information. It is a waste of paper and can actually encourage absentee voting by mail. As a town clerk, I choose not to use a separate application and envelope for in-person voting. From previous experience, I saw voters complete the separate absentee application and because the option was on the sheet, they chose to have their absentees mailed to them in the future. This extra paper and postage is an additional cost paid by taxpayers. Having a separate application form for in-person absentee voting is basically window dressing for politicians. Again there is no added value, only mounds of extra paper.

Thank you for your consideration,  
Lisa Tollefson





Election Commission

Commissioners  
Stephanie Findley, Chair  
Carmen C. Cabrera  
Jess Ripp

Executive Director  
Claire Woodall-Vogg

## City of Milwaukee Testimony on AB 178, AB 179 and AB 201

April 27, 2021

### Assembly Committee on Campaigns and Elections

Thank you to Rep. Brandtjen and to the committee members for the opportunity to provide testimony on AB 178, relating to applications for absentee ballots; AB 179, relating to absentee voting in certain care facilities and retirement homes; and AB 201, which makes a number of changes to the laws relating to absentee ballots in Wisconsin.

The City of Milwaukee opposes AB 178 because it is creating a solution for which there is absolutely no problem. All voters, unless voting in-person absentee in the clerk's office, have always had to have a separate application from their absentee ballot certificate envelope. The legislature, following in the footsteps of failed lawsuits in Wisconsin, now wants to create additional paperwork for municipal clerks and voters during the in-person absentee process. This bill will create additional paperwork for municipal clerks and voters during the in-person absentee process which is unnecessary, inefficient, and duplicative.

AB 179 requires the administrator of a care facility to provide notice to the relatives for each occupant who intends to vote by absentee ballot with special voting deputies of the dates and times when the deputies will be visiting the home or facility. The City of Milwaukee cautions the legislature from unnecessarily impeding upon a voter's right to a private and independent vote, especially those living in assisted living whom often remain quite independent. We do think that the SVD process should be discussed with families at intake, including when and where notices are posted. AB 179 also makes it a felony for an employee who influences an occupant of the home or facility to apply for or not apply for an absentee ballot. Creating a provision that does not allow them to influence whether or not to apply for an absentee ballot is extremely vague and possibly detrimental to the Special Voting Deputy program. Municipal clerks across the state rely on the employees of the facilities that we visit to provide voter registration and absentee voting information at intake, as well as to review registered voter lists for accuracy. We rely on staff to contact residents who may have moved into a new residence or a different level of care within the facility in order to update their voting information, especially if they have moved from independent living to assisted or nursing care and now need to be enrolled in the Special Voting Deputy program. This bill is tone deaf to the integral, non-partisan but administrative role that care facility staff play in helping local election officials administer the Special Voting Deputy program.

The City of Milwaukee opposes AB 201 in its entirety due to the bill's alarming administrative costs, the burdensome and unrealistic procedures placed on local election officials, and the bill's impact on voters with disabilities and voters living in poverty, both categories of whom are disproportionately voters of color. At the forefront of this bill stands the incredible administrative costs placed on local municipalities. This bill eliminates the ability for voters who are indefinitely confined due to age, illness, infirmity or disability to automatically receive a ballot for each election so long as they continue returning and voting in each election. Instead, the burden is shifted onto clerks to begin automatically mailing separate applications for a ballot to every indefinitely confined voter for each



election. The cost is unnecessary and burdensome for us to print paper applications, mail them to thousands of voters, and then hire a large data entry staff to enter the returned applications upon receipt. This cost continues into every aspect of a local municipal clerk's office, including the cost to retain and alphabetize thousands of applications for every single election, provide secure storage of these additional materials, and future destruction of these materials.

This bill forbids clerks from mailing unsolicited absentee applications, suggesting that clerks should now somehow log every phone call and request for an absentee application. Would a voter be able to request more than one application? Would each family member need to speak to a staff member in order for us to mail three applications to the same address? For my office, this would require logging thousands of phone calls each and every year, which is not only burdensome but would require an investment in new technology and additional staff. As an election administrator, AB 201's attempt to stifle my office's education and outreach to voters is incredibly frustrating and insulting; election administrators already face a mountain of misinformation being shared online, through social networks, and outside partisan groups. To enact legislation that would literally forbid me from providing correct and accurate information if it included providing an absentee application is baffling.

The process and timelines for these proposed changes are not realistic for local election officials. There are 49 days between a Spring Primary and a Spring Election. We receive absentee ballots just 27 days after the Spring Primary. In the days and weeks following the Spring Primary, clerks are conducting canvasses, entering election participation, and carrying out other administrative tasks related to the Primary. Clerks would need to immediately mail out these "automatic applications" after conducting the Spring Primary in order to have enough time for the application to reach the voter, have the voter complete it and make a new copy of their photo identification, and then enough time for the application to be returned and processed. 27 days is a very tight timeline to complete this process even when hiring additional staff to conduct the mailing and processing of incoming requests when we take into consideration the average USPS mailing time is 4-5 days each way.

Finally, this bill ignores the disproportionate impact it will have on voters with disabilities and voters living in poverty. Voters who have certified that they are indefinitely confined have done so because it is a burden for them to physically get to the polls or wait in a line at a polling place. The burden placed upon these voters to furnish their photo identification with **every single absentee application** is either being completely ignored or the authors are assuming that every voter has easy access to a photocopier or the internet within their personal residence. This bill also now requires an electronic copy of the voter's original written signature with every absentee application. Again, a voter must now own a scanner or be expected to travel outside of the home prior to every election to sign and scan an electronic signature if they wish to apply for a ballot via email. This bill would create so many hoops for our most vulnerable voters to jump through that I am concerned they will throw up their hands and give up voting entirely which I'm afraid is the intent.

The City of Milwaukee urges you to oppose AB 178, AB 179, and AB 201. Thank you for your consideration.

**For additional information and questions, please contact:**

Brenda Wood, Intergovernmental Policy Manager, City of Milwaukee  
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