



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2033/1
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2021 SENATE BILL 212

March 16, 2021 - Introduced by Senators DARLING, STROEBEL, WIMBERGER, BALLWEG, BRADLEY, FELZKOWSKI, FEYEN, JACQUE, MARKLEIN, NASS and WANGGAARD, cosponsored by Representatives SANFELIPPO, EDMING, GUNDRUM, KNODL, KRUG, MURPHY, NEYLON, SKOWRONSKI, STEFFEN, VANDERMEER and WICHGERS. Referred to Committee on Elections, Election Process Reform and Ethics.

1 **AN ACT** *to amend* 6.87 (9) and 12.60 (1) (a); and *to create* 12.13 (2) (b) 3g., 12.13
2 (2) (b) 3r. and 12.13 (2) (b) 9. of the statutes; **relating to:** defects on absentee
3 ballot certificates, certain kinds of election fraud, and providing a penalty.

Analysis by the Legislative Reference Bureau

ELECTION FRAUD

Current law prohibits election officials from committing certain kinds of election fraud, including permitting a person to register to vote or vote when the election official knows the person is not qualified to do so. This bill provides further that no election official may do any of the following:

1. Intentionally assist or cause the casting or counting of a vote or the receipt of a registration that the election official knows is invalid.
2. Intentionally assist or cause a vote or registration to be rejected when the election official knows the vote or registration is valid.
3. Intentionally fail to promptly report election fraud committed by another election official.

Under current law, an election official who commits election fraud is generally subject to a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months or both. Under the bill, election officials violating the prohibitions described above are likewise subject to that penalty.

ABSENTEE BALLOT CERTIFICATES

Under current law, absentee ballot envelopes include a printed certificate that must be completed, signed by the voter and a qualified witness, and returned to the

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municipal clerk with the completed ballot so that it is delivered to the polling place no later than 8 p.m. on election day. By completing and signing the certificate, the voter certifies that he or she is entitled to vote in the election and that the voter completed his or her absentee ballot in the presence of the witness. The witness certificate includes the witness's printed name and address in addition to his or her signature. 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.

Under this bill, if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk is required to return the ballot to the voter and post a notification of the defect on the voter's voter information page on the Internet site that is used by voters for original registration, currently titled MyVote Wisconsin. The bill also prohibits the municipal clerk from correcting a defect in the certificate.

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

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

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

1 **SECTION 1.** 6.87 (9) of the statutes is amended to read:

2 6.87 (9) If a municipal clerk receives an absentee ballot with an improperly
3 completed certificate or with no certificate, the clerk may shall return the ballot to
4 the elector, inside the sealed envelope when an envelope is received, together with
5 a new envelope if necessary, ~~whenever time permits the elector to correct the defect~~
6 ~~and return the ballot within the period authorized under sub. (6)~~ and shall post a
7 notification of the defect on the elector's voter information page on the Internet site
8 that is used by electors for original registration under s. 6.30 (5). The municipal clerk
9 may not correct a defect in the certificate.

10 **SECTION 2.** 12.13 (2) (b) 3g. of the statutes is created to read:

