



## 2021 SENATE BILL 937

February 3, 2022 - Introduced by Senators BERNIER, DARLING, FELZKOWSKI, MARKLEIN and WANGGAARD, cosponsored by Representatives DUCHOW, ALLEN, ARMSTRONG, DALLMAN, EDMING, GUNDRUM, KNODL, KRUG, KUGLITSCH, MACCO, MAGNAFICI, MOSES, MURPHY, MURSAU, PENTERMAN, PRONSCHINSKE, SCHRAA and SPIROS. Referred to Committee on Elections, Election Process Reform and Ethics.

1     **AN ACT** *to repeal* 6.87 (4) (b) 2.; *to amend* 6.18 (intro.), 6.86 (1) (ac), 6.86 (2) (a),  
2           6.86 (2) (b), 6.87 (1), 6.87 (2) (intro.) and 12.60 (1) (b); and *to create* 6.86 (2) (c)  
3           and 12.13 (3) (ig) of the statutes; **relating to:** status as an indefinitely confined  
4           voter for purposes of receiving absentee ballots automatically and providing a  
5           penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law allows a voter who is indefinitely confined because of age, physical illness, infirmity, or disability to have, by signing a statement to that effect, an absentee ballot sent to the voter automatically every election. The voter is not required to submit a copy of his or her voter identification with the request to receive absentee ballots automatically. Current law requires the voter to notify the municipal clerk when the voter is no longer indefinitely confined. Also, under current law, if a voter fails to vote an absentee ballot the voter receives as a result of his or her indefinitely confined status, the voter must renew his or her application for indefinitely confined status within 30 days or be removed from the indefinitely confined status list. Finally, the municipal clerk must remove a voter from the indefinitely confined status list upon the voter's request or upon receipt of reliable information that the voter no longer qualifies as indefinitely confined.

This bill does all of the following:

1. Provides that indefinitely confined status may be claimed by a voter who is indefinitely confined and cannot travel independently without significant burden because of frailty, physical illness, or a disability that will last longer than one year.

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2. Provides that a voter seeking indefinitely confined status must apply for that status on an application prescribed by the Elections Commission. Under the bill, the application form prescribed by the commission must be separate and distinct from any other absentee ballot application prescribed by the commission.

3. Subject to certain exceptions provided in the bill, requires that an applicant for indefinitely confined status submit proof of identification with his or her application.

4. Specifies that the existence of an outbreak or epidemic of a communicable disease in a voter's community does not qualify the voter as indefinitely confined.

5. Specifies that the penalty for making a false statement for the purpose of qualifying as indefinitely confined is a fine of not more than \$1,000 or imprisonment of not more than six months, or both.

6. Provides that a voter who fails to vote a ballot the voter receives as a result of his or her indefinitely confined status may be removed from the indefinitely confined status list only if he or she fails to vote the ballot at the spring or general election.

7. Requires that the municipal clerk remove a voter from the indefinitely confined status list if the voter votes at the polls in any election.

8. Requires the Elections Commission to facilitate the removal of the indefinitely confined status of each voter who received that status between March 12, 2020, and November 3, 2020. A voter whose indefinitely confined status is so removed must submit a new application for indefinitely confined status in order to continue receiving absentee ballots automatically.

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.

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

1           **SECTION 1.** 6.18 (intro.) of the statutes is amended to read:

2           **6.18 Former residents.** (intro.) If ineligible to qualify as an elector in the  
3 state to which the elector has moved, any former qualified Wisconsin elector may  
4 vote an absentee ballot in the ward of the elector's prior residence in any presidential  
5 election occurring within 24 months after leaving Wisconsin by requesting an  
6 application form and returning it, properly executed, to the municipal clerk of the  
7 elector's prior Wisconsin residence. When requesting an application form for an  
8 absentee ballot, the applicant shall specify the applicant's eligibility for only the

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1 presidential ballot. Unless the applicant is exempted from providing proof of  
2 identification under s. 6.87 (4) (b) ~~2. or 3.~~, or the applicant is a military or overseas  
3 elector, the elector shall enclose a copy of his or her proof of identification or any  
4 authorized substitute document with his or her application. The municipal clerk  
5 shall verify that the name on the proof of identification conforms to the name on the  
6 application. The clerk shall not issue a ballot to an elector who is required to enclose  
7 a copy of proof of identification or an authorized substitute document with his or her  
8 application unless the copy is enclosed and the proof is verified by the clerk. The  
9 application form shall require the following information and be in substantially the  
10 following form:

11 **SECTION 2.** 6.86 (1) (ac) of the statutes is amended to read:

12 6.86 (1) (ac) Any elector qualifying under par. (a) may make written application  
13 to the municipal clerk for an official ballot by means of facsimile transmission or  
14 electronic mail. Any application under this paragraph need not contain a copy of the  
15 applicant's original signature. An elector requesting a ballot under this paragraph  
16 shall return with the voted ballot a copy of the request bearing an original signature  
17 of the elector as provided in s. 6.87 (4). Except as authorized in ss. 6.87 (4) (b) ~~2. 3.~~  
18 to 5. and 6.875 (6), and notwithstanding s. 343.43 (1) (f), the elector shall transmit  
19 a copy of his or her proof of identification in the manner provided in s. 6.87 (1) unless  
20 the elector is a military elector or an overseas elector or the elector has a confidential  
21 listing under s. 6.47 (2).

22 **SECTION 3.** 6.86 (2) (a) of the statutes is amended to read:

23 6.86 (2) (a) An elector who is indefinitely confined and cannot travel  
24 independently without significant burden because of age frailty, physical illness, or  
25 infirmity or is disabled for an indefinite period a disability that will last longer than

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1 ~~one year~~ may by signing a statement to that effect require that apply to have an  
2 absentee ballot be sent to the elector automatically for every election. The  
3 indefinitely confined status application form and instructions shall be prescribed by  
4 the commission, shall be separate and distinct from any other application for  
5 absentee ballots prescribed by the commission, and shall be furnished upon request  
6 to any elector by each municipality. The envelope containing the absentee ballot  
7 shall be clearly marked as not forwardable. If any elector is no longer indefinitely  
8 confined, the elector shall so notify the municipal clerk, and the municipal clerk shall  
9 remove the elector from the indefinitely confined mailing list. The existence of an  
10 outbreak or epidemic of a communicable disease in an elector's community does not  
11 qualify the elector as indefinitely confined for purposes of receiving absentee ballots  
12 automatically under this subsection.

13 **SECTION 4.** 6.86 (2) (b) of the statutes is amended to read:

14 6.86 (2) (b) The mailing list established under this subsection shall be kept  
15 current through all possible means. If an elector fails to cast and return an absentee  
16 ballot received under this subsection with respect to a spring or general election, the  
17 clerk shall notify the elector by 1st class letter or postcard that his or her name will  
18 be removed from the mailing list unless the clerk receives a renewal of the  
19 application within 30 days of the notification. The clerk shall remove from the list  
20 the name of each elector who does not apply for renewal within the 30-day period.  
21 The clerk shall remove the name of any other elector from the list upon request of the  
22 elector or, upon receipt of reliable information that ~~an~~ the elector is no longer  
23 qualifies for the service indefinitely confined because of frailty, physical illness, or  
24 a disability that will last longer than one year, or if the elector votes at the polls in

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1 any election. The clerk shall notify the elector of such action not taken at the elector's  
2 request within 5 days, if possible.

3 **SECTION 5.** 6.86 (2) (c) of the statutes is created to read:

4 6.86 (2) (c) 1. Except as provided in subd. 2., each elector who possesses proof  
5 of identification must submit a copy of the elector's proof of identification with each  
6 application for indefinitely confined status under this subsection.

7 2. An elector who applies for indefinitely confined status by electronic means  
8 using the application form prescribed by the commission under par. (a) is not  
9 required to provide proof of identification under subd. 1. if, at the time of application,  
10 the elector provides the number of a current and valid operator's license issued under  
11 ch. 343, or the number of a current and valid identification card issued under s.  
12 343.50, together with the elector's name and date of birth, and the commission is able  
13 to verify the elector's information using the system maintained under s. 6.34 (4).

14 3. An elector applying for indefinitely confined status under this subsection  
15 who does not possess proof of identification shall submit with his or her application  
16 an affirmation of the elector that the elector is indefinitely confined and cannot travel  
17 independently without significant burden because of frailty, physical illness, or a  
18 disability that will last longer than one year; an affirmation of a U.S. citizen who is  
19 18 years of age or older that the elector is indefinitely confined and cannot travel  
20 independently without significant burden because of frailty, physical illness, or a  
21 disability that will last longer than one year; the last 4 digits of the elector's social  
22 security account number; and a statement of the elector authorizing the commission  
23 to use the last 4 digits of the elector's social security account number to verify the  
24 elector's identity. The application form prescribed by the commission shall include  
25 the affirmations.

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1           **SECTION 6.** 6.87 (1) of the statutes is amended to read:

2           6.87 (1) Upon proper request made within the period prescribed in s. 6.86, the  
3 municipal clerk or a deputy clerk authorized by the municipal clerk shall write on  
4 the official ballot, in the space for official endorsement, the clerk's initials and official  
5 title. Unless application is made in person under s. 6.86 (1) (ar), the absent elector  
6 is exempted from providing proof of identification under sub. (4) (b) ~~2- or 3.~~, or the  
7 applicant is a military or overseas elector, the absent elector shall enclose a copy of  
8 his or her proof of identification or any authorized substitute document with his or  
9 her application. The municipal clerk shall verify that the name on the proof of  
10 identification conforms to the name on the application. The clerk shall not issue an  
11 absentee ballot to an elector who is required to enclose a copy of proof of identification  
12 or an authorized substitute document with his or her application unless the copy is  
13 enclosed and the proof is verified by the clerk.

14           **SECTION 7.** 6.87 (2) (intro.) of the statutes is amended to read:

15           6.87 (2) (intro.) Except as authorized under sub. (3) (d), the municipal clerk  
16 shall place the ballot in an unsealed envelope furnished by the clerk. The envelope  
17 shall have the name, official title and post-office address of the clerk upon its face.  
18 The other side of the envelope shall have a printed certificate which shall include a  
19 space for the municipal clerk or deputy clerk to enter his or her initials indicating  
20 that if the absentee elector voted in person under s. 6.86 (1) (ar), the elector presented  
21 proof of identification to the clerk and the clerk verified the proof presented. The  
22 certificate shall also include a space for the municipal clerk or deputy clerk to enter  
23 his or her initials indicating that the elector is exempt from providing proof of  
24 identification because the individual is a military elector or an overseas elector who  
25 does not qualify as a resident of this state under s. 6.10 or is exempted from providing

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1 proof of identification under sub. (4) (b) ~~2.~~ or 3. The certificate shall be in  
2 substantially the following form:

3 **SECTION 8.** 6.87 (4) (b) 2. of the statutes is repealed.

4 **SECTION 9.** 12.13 (3) (ig) of the statutes is created to read:

5 12.13 (3) (ig) Falsely make any statement for the purpose of qualifying as  
6 indefinitely confined under s. 6.86 (2) (a) or (b).

7 **SECTION 10.** 12.60 (1) (b) of the statutes is amended to read:

8 12.60 (1) (b) Whoever violates s. 12.03, 12.05, 12.07, 12.08 or 12.13 (2) (b) 8.,  
9 (3) (b), (c), (d), (g), (i), (ig), (n) to (x), (ze), (zm) or (zn) may be fined not more than  
10 \$1,000, or imprisoned not more than 6 months or both.

11 **SECTION 11. Nonstatutory provisions.**

12 (1) The elections commission shall facilitate the removal, no later than the first  
13 day of the 3rd month beginning after the effective date of this subsection, from the  
14 mailing list maintained under s. 6.86 (2) of each elector who applied for automatic  
15 receipt of absentee ballots under s. 6.86 (2) (a) during the period beginning on March  
16 12, 2020, and ending on November 3, 2020.

17 (2) No elector who under sub. (1) is removed from the mailing list under s. 6.86  
18 (2) may receive an absentee ballot under that subsection unless the elector reapplies  
19 for automatic receipt of absentee ballots under s. 6.86 (2) (a).

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(END)