



Alberta Darling

Wisconsin State Senator | District 8

**Testimony before the Senate Committee on Elections, Election Process
Reform and Ethics
Senate Bill 211**

Thursday, April 15, 2021
411 South

Chairwoman Bernier and committee members,

In Wisconsin, voters have multiple ways to vote early. A voter can vote absentee by mail, or voters can request and vote absentee in person. While both options are called “absentee” by the Wisconsin Election Commission, the agency treats them differently.

Current law states a voter who wishes to vote absentee may make a written application to their clerk or municipality requesting a ballot. This resulted in a non-uniform process throughout our state. There was confusion on what form, if any, they needed to fill out and what information is required.

While a form is required to request an absentee ballot, according to a WEC spokesperson “...there are no requirements in state law on the nature of absentee ballot applications, leaving that detail to the commission to decide. And the commission has required an application for every ballot.” –Milwaukee Journal Sentinel, December 10, 2020.

While current law also does not prescribe a specific form of written application for requesting an absentee ballot, the Wisconsin Elections Commission created form EL-122 as their official absentee ballot application certificate.

Senate Bill 211 clarifies the process and intent of our voting laws to require a separate and distinct application form that contains the information currently asked for in the form EL-122.

SB 211 requires the same information from the EL-122 form including:

- Voter’s municipality and county of residence
- Their name, date of birth, and contact information
- The street address of their legal voting address
- The election which the voter intends to vote absentee
- Whether the voter is a military or overseas voter
- The voter’s confidential identification serial number if the voter has a confidential listing
- The lawful method by which the voter prefers to receive the absentee ballot
- Whether the voter is hospitalized

It takes only a few seconds to fill out an EL-122 and makes the process for voting absentee consistent for all voters. Thank you.



**Wisconsin
Conservation
Voters**

**Testimony on SB 204, SB 205, & SB 211
Anjali Bhasin, Civic Engagement Director
April 15, 2021**

Good morning. Thank you Chairwoman Bernier and members of the committee for allowing me to testify today. My name is Anjali Bhasin. I am the Civic Engagement Director for Wisconsin Conservation Voters. We have offices in Madison, Milwaukee, Eau Claire, and Green Bay, where we work with our network of over 40,000 members and supporters to engage voters to protect our environment and democracy. We work in close partnership with many democracy groups around the state.

As an American, few things are more important than the right to vote and ensuring all people, regardless of their race, gender, or zip code, have the opportunity to vote. It is fundamental that Wisconsinites should have the opportunity to make their voices heard and to participate in elections.

Unfortunately, SB 204, SB 205, SB 211, and SB 214 create barriers to voting and most impact vulnerable members of our society. We urge members of the committee to oppose this legislation.

SB 204

SB 204 creates roadblocks for voters with disabilities, voters who do not have access to technology, and the elderly. This year, our organization spent countless hours helping individual voters request absentee ballots. The process of requesting an absentee ballot takes several steps and includes uploading a photo ID. In our conversations, we often talked to voters who had to upload their identification. In particular, I remember talking with one individual who believed he had put in a request and was waiting for his ballot to arrive, only to discover that no such request existed in MyVote. The individual was uncertain why his request had not gone through and it highlighted the challenges for voters requesting absentee ballots. We are concerned that requiring individuals to place an absentee ballot request and upload photo ID for every election will disproportionately impact voters who lack broadband and access to required technology. We are also deeply concerned about the impact that this bill would have on individuals with disabilities or limited mobility. Voting is a fundamental right and we believe voting should be made more accessible as opposed to creating additional barriers. We urge you to oppose SB 204.

SB 205

SB 205 infringes on a voter's right to privacy and the precedent it would set by limiting workers from encouraging individuals to vote. Voting is a fundamental American right and we should all embrace and encourage it as such. We believe that employees at residential and nursing care facilities should be able to encourage others to vote. Additionally, we believe that individuals in nursing and residential facilities deserve the right to privacy when voting. Individuals in nursing care and residential care facilities make their own decisions every day and should be able to vote without their children being notified. We urge you to oppose SB 205.

SB 211

We are opposed to SB 211. For decades, voters have been able to write clerks offices requesting an absentee ballot. If a specific form is required, clerks have to follow up with each request to ask that the specific form be used. This creates an unnecessary burden for clerks. Additionally, the majority of voters not using MyVote are senior citizens. Changing the process could be confusing and disenfranchise these individuals.

We urge members of the committee to oppose the bills before you today as they create unnecessary barriers to voting in Wisconsin. Thank you.

For more information, contact Anjali Bhasin at anjali@conservationvoices.org or 608-469-4179.



Election Commission

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City of Milwaukee Testimony on SB 204, SB 205 and SB 211

April 15, 2021

Senate Committee on Elections, Election Process Reform and Ethics

Thank you to Senator Bernier and to the committee members for the opportunity to provide testimony on SB 204, which makes a number of changes to the laws relating to absentee ballots in Wisconsin; SB 205, relating to absentee voting in certain care facilities and retirement homes; and SB 211, relating to applications for absentee ballots.

The City of Milwaukee opposes SB 204 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, SB 204'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.

SB 205 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. SB 205 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 SB 211 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.

The City of Milwaukee urges you to oppose SB 204, SB 205, and SB 211. Thank you for your time today and I am happy to answer any questions.

For additional information and questions, please contact:

Brenda Wood, Intergovernmental Policy Manager, City of Milwaukee
bwood@milwaukee.gov; 414-339-9054

April 15, 2021



Comments from the ACLU of Wisconsin
In opposition to SB 204, 205, and 211
Senate Committee on Elections, Election Process Reform and Ethics

Chair Bernier and members of the committee:

Established in 1965, the ACLU Voting Rights Project has worked to protect the gains in political participation won by racial and language minorities since the passage of the 1965 Voting Rights Act. Here in Wisconsin, the ACLU has worked on voting rights for almost as long, and has been a lead partner of Wisconsin Election Protection for at least 15 years, along with many other groups such as the League of Women Voters, the Lawyers' Committee for Civil Rights Under Law, and many other nonpartisan organizations.

SB 204 imposes unnecessary and deliberate burdens on indefinitely confined voters who, by definition, are *confined to their homes*, and wish to vote from home. This change would require confined voters to leave home, collect documents, get to the DMV, and obtain photo identification. Not only is this anti-voter, but it is also anti-common sense. For voters who already possess one of the limited forms of identification allowed by Wisconsin's strict photo ID law, this law may require them to leave home to obtain copies of their ID - requirements that will impose more than a *de minimus* burden on these eligible voters and thus also appears to be unconstitutional. The bill also requires overseas voters to obtain IDs - something which, in the case of overseas voters, maybe impossible, since if they lack a passport or other ID they will not be able to obtain one by going directly to a DMV while abroad. In short, these changes may make it extremely difficult for these two types of voters to request an absentee ballot and vote, even though they are eligible to do so.

SB 204 also imposes substantial burdens on already overworked clerks across Wisconsin, most of whom work only part-time, and on voters, by prohibiting clerks from affirmatively mailing absentee applications and requiring voters to submit an absentee application for each election. This means that voters must fill out duplicative and unnecessary paperwork to request a ballot and clerks must spend time processing absentee ballot applications for every election. The bill imposes an additional burden on clerks by also requiring two separate documents be completed for in-person absentee voters - a requirement that existed in the past and that clerks have specifically

requested be eliminated because of the burdens the system imposed on them and voters. For these reasons, we oppose SB 204.

We oppose **SB 205**, which limits the right to vote of residents in nursing homes and group homes by placing burdens and restrictions on people trying to help these residents vote. The bill also potentially comes into conflict with federal law which requires that nursing homes support the right of residents to vote. The bill does this by potentially and unreasonably criminalizing the behavior of nursing home staff who even educate voters about their right to vote by absentee ballot. While the bill uses the language "may influence" voters to vote, it remains unclear what qualifies as "influence," creating a chilling effect in nursing homes and group homes offering assistance to their residents seeking to utilize their right to vote. Further, this bill would require the administrators of these residential facilities to notify relatives of these eligible voters as to when the special voting deputies will be coming to the facility to assist in the casting of absentee ballots. This time-consuming requirement may also have the unintended consequence of discouraging nursing home and group home administrators from requesting that a special voting deputy be deployed to their facility so that their residents can vote directly at their living location.

SB 211 further burdens our already overworked clerks in the administration of in-person absentee voting. The bill requires that in-person absentee voters fill out an absentee application separate from the ballot certification envelope. This duplicitous and unnecessary step will not only slow down the in-person absentee voting process but also will substantially increase the amount of paperwork clerks must process. This requirement existed in the past and clerks specifically requested that it be removed. As a result, we do not support SB 211.

Again, we urge you to not move forward on Senate Bills 204, 205, and 211.



GEORGE L. CHRISTENSON
MILWAUKEE COUNTY CLERK

Senate Committee on Elections, Election Process Reform and Ethics

Public Hearing

Thursday, April 15, 2021

Written Testimony provided by Milwaukee County Clerk George L. Christenson

Chairwoman Bernier and Members of the Committee, thank you for the opportunity to submit this written testimony before your honorable body. In my capacity as Milwaukee County Clerk, I also serve as Executive Director of the Milwaukee County Election Commission which is comprised of three 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 in bi-partisan fashion with this committee and legislative leaders to identify bonafide ways to improve upon our election processes. Thank you.

Senate Bill 204 – 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 d 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.

Senate Bill 205 – 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.

Senate Bill 211– Oppose

I am in opposition to this bill because, not unlike SB 204, 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.