



## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

### Voter ID Requirements

2011 Wisconsin Act 23, commonly referred to as “the Voter ID Bill,” creates a requirement that voters must present identification when voting and revises other voting requirements and procedures. This Information Memorandum describes the provisions of Act 23 relating to the new identification requirement.

Provisions related to residency requirements, absentee voting procedure, and voter registration are described in a separate memorandum, IM-2011-11, *Recent Election Law Changes*, dated July 11, 2011.

#### **REQUIREMENT FOR IDENTIFICATION**

Beginning with the 2012 Spring Primary, Act 23 requires voters to present “proof of identification” when voting. The requirement applies to both absentee voting and in-person voting at a polling place. Proof of identification will be requested at earlier elections, but will not be required.

“Proof of identification” means identification that contains a photograph<sup>i</sup> of the voter and a name that conforms to the name appearing on the voter’s registration form. However, not all documents that contain the voter’s name and photograph are considered identification for purposes of voting.

Act 23 enumerates the following specific documents that constitute identification:

- Wisconsin Driver’s License. The driver’s license (referred to in the statutes as an “operator’s license”) must be issued by the Wisconsin Department of Transportation (DOT) and must be either unexpired, or if expired, must have expired after the date of the most recent general election.
- Wisconsin Identification Card. The identification card must be issued by DOT and must be either unexpired, or if expired, must have expired after the date of the most recent general election.

- U.S. Uniformed Service Identification Card. The card must be issued by a U.S. uniformed service and must be either unexpired, or if expired, must have expired after the date of the most recent general election.
- U.S. Passport. The passport must be either unexpired, or if expired, must have expired after the date of the most recent general election.
- Certificate of U.S. Naturalization. The certificate must have been issued no earlier than two years before the election at which it is presented.
- Driving Receipt.<sup>ii</sup> The receipt must be issued by DOT and must be unexpired.
- Identification Card Receipt.<sup>iii</sup> The receipt must be issued by DOT and must be unexpired.
- Wisconsin Tribal Identification Card. The card must be issued by a federally recognized Indian tribe in this state.
- University or College Identification Card. The card must be issued by an accredited university or college in Wisconsin and must be unexpired. The card must also contain the date of issuance, the signature of the individual, and an expiration date indicating that the card expires no later than two years after issuance. A card that meets these specifications may be used as identification for voting if the individual establishes that he or she is enrolled as a student at the university or college on the date that the card is presented.

### **EXCEPTIONS TO THE REQUIREMENT FOR IDENTIFICATION**

Act 23 generally requires voters to present proof of identification in order to vote, but creates specific exceptions to the requirement. The following individuals are not required to present identification for voting:

- An Absentee Elector Who Provided a Copy of His or Her Proof of Identification at a Previous Election. A voter is not required to provide a copy of his or her proof of identification if the voter received an absentee ballot by mail for a previous election, provided a copy of proof of identification with that ballot, and has not subsequently changed his or her name or address.
- A Military Elector. A voter who meets the definition of “military elector” contained in s. 6.34 (1) (a), Stats., and votes by absentee ballot is not required to provide a copy of his or her proof of identification.
- An Overseas Elector. A voter who meets the definition of “overseas elector” contained in s. 6.34 (1) (b), Stats., and votes by absentee ballot is not required to provide a copy of his or her proof of identification.

- An Elector With a Confidential Listing. A voter who has a confidential listing, meaning his or her name and address are not disclosed on the poll list as a result of domestic abuse, sexual assault, or stalking, may present his or her confidential identification card or serial number in lieu of presenting proof of identification.
- An Indefinitely Confined Elector. An absentee voter who is indefinitely confined because of age, physical illness, or infirmity, or who is disabled for an indefinite period, and who has applied for and qualified to receive absentee ballots automatically may submit a statement verifying the voter's name and address, signed by the individual who witnesses the voter's ballot, in lieu of providing a copy of the voter's proof of identification.
- An Elector in Certain Care Facilities. An absentee voter who resides in certain care facilities may submit a statement verifying the voter's name and address in lieu of providing a copy of his or her proof of identification.
  - A voter who resides in a nursing home, qualified retirement home, qualified community-based residential facility (CBRF), qualified residential care apartment complex, or qualified adult family home where Special Voting Deputies (SVDs) are sent may submit a statement signed by the SVDs that verifies the voter's name and address.
  - A voter who resides in a qualified retirement home, qualified CBRF, residential care apartment complex, or adult family home where SVDs *are not* sent may submit a statement signed by an individual who witnesses the voter's absentee ballot, which contains the certification of an authorized representative of the complex, facility, or home certifying that the voter resides there, and verifying the voter's name and address.
- An Elector Who Surrendered His or Her Driver's License. A voter who receives a citation or notice of intent to revoke or suspend a driver's license from a law enforcement officer within 60 days of the election and must surrender his or her license or driving receipt may present the citation or notice if voting in person, or may present a copy if voting by mail, in lieu of presenting the driver's license or driving receipt as proof of identification.

### **VERIFYING PROOF OF IDENTIFICATION**

Act 23 requires election officials (poll workers or clerks) to verify a voter's name and photograph upon being presented with the voter's proof of identification. Election officials must verify that a voter's name "conforms" to the name that appears on the poll list and must verify that the voter's photograph "reasonably resembles" the voter.<sup>iv</sup>

The Act requires election officials to verify a voter's name and photograph, but does not require election officials to verify other information contained on a voter's identification. Therefore, a document presented by a voter as identification must accurately reflect the voter's name and likeness, but does not need to reflect a voter's current address.<sup>v</sup>

## **FAILURE TO PROVIDE IDENTIFICATION**

Act 23 provides that a voter who fails to present the required proof of identification will be allowed to vote, but will be required to vote a provisional ballot. A provisional ballot will not be counted unless the voter provides proof of identification within a specified period of time. To have his or her provisional ballot counted, a voter must either return to the polling place and present identification before the polls close, or provide identification at the office of the municipal clerk or Board of Election Commissioners by 4 p.m. on the Friday following the election.

## **INITIAL APPLICATION OF THE IDENTIFICATION REQUIREMENT**

The requirement for proof of identification when voting first applies at the 2012 Spring Primary. Prior to the 2012 Spring Primary, identification will be **requested** at the polls but will not be **required**. Election officials who staff the polls at a recall or special election in 2011 will ask voters to present proof of identification, but will count a qualified voter's ballot, regardless of whether the voter provided identification.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Katie Bender-Olson, Staff Attorney, on July 11, 2011.

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<sup>i</sup> Proof of identification must generally contain a photograph. However, Act 23 permits DOT to issue a Wisconsin driver's license or Wisconsin identification card without a photograph to individuals who have sincerely held religious beliefs against being photographed.

<sup>ii</sup> A driving receipt is a temporary license to operate a motor vehicle while the application for a license is being processed. [s. 343.11 (3), Stats.]

<sup>iii</sup> An identification card receipt is a temporary identification card issued by DOT while a cardholder's application is being processed. [s. 343.50 (1) (c), Stats.]

<sup>iv</sup> An election official is not required to verify a voter's photograph when the voter provides identification by submitting a copy of the identification with his or her application for an absentee ballot. Because the voter does not appear in person with his or her identification, the municipal clerk is only required to verify that the name on the identification "conforms" to the name on the absentee ballot application.

<sup>v</sup> A voter establishes his or her current address when registering to vote by providing proof of residence.