

State of Wisconsin



2011 Senate Bill 271

Date of enactment: April 6, 2012
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2011 WISCONSIN ACT 227

AN ACT *to amend* 6.18, 6.86 (1) (ac), 6.86 (3) (a) 1., 6.869, 6.87 (1), 6.87 (4) (b) 1., 6.87 (4) (b) 2., 6.87 (4) (b) 3., 6.87 (4) (b) 5., 6.88 (3) (a), 6.97 (title), 6.97 (2), 6.97 (3), 7.08 (12) and 7.52 (3) (a); and *to create* 6.86 (6) of the statutes; **relating to:** return of absentee ballots, submittal of proof of identification with absentee ballot applications, and voting in person by electors who have voted by absentee ballot in the same election.

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

SECTION 1. 6.18 of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

6.18 Former residents. If ineligible to qualify as an elector in the state to which the elector has moved, any former qualified Wisconsin elector may vote an absentee ballot in the ward of the elector's prior residence in any presidential election occurring within 24 months after leaving Wisconsin by requesting an application form and returning it, properly executed, to the municipal clerk of the elector's prior Wisconsin residence. When requesting an application form for an absentee ballot, the applicant shall specify the applicant's eligibility for only the presidential ballot. ~~Unless application is made under s. 6.86(1)(ac),~~ or the applicant is exempted from providing proof of identification under s. 6.87 (4) (b) 2. or 3., or the applicant is a military or overseas elector, the elector shall enclose a copy of his or her proof of identification or any authorized substitute document with his or her application. The municipal clerk shall verify that the name on the proof of identification conforms to the name on the application. The clerk shall not issue a ballot to an elector who is required to enclose a copy of proof of identification or an authorized substitute document with his or her

application unless the copy is enclosed and the proof is verified by the clerk. The application form shall require the following information and be in substantially the following form:

This form shall be returned to the municipal clerk's office. Application must be received in sufficient time for ballots to be mailed and returned prior to any presidential election at which applicant wishes to vote. Complete all statements in full.

APPLICATION FOR PRESIDENTIAL
ELECTOR'S ABSENTEE BALLOT
(To be voted at the Presidential Election
on November, (year)

I, hereby swear or affirm that I am a citizen of the United States, formerly residing at in the ward aldermanic district (city, town, village) of, County of for 28 consecutive days prior to leaving the State of Wisconsin. I, do solemnly swear or affirm that I do not qualify to register or vote under the laws of the State of(State you now reside in) where I am presently residing. A citizen must be a resident of: State(Insert time) County(Insert time) City, Town or Village(Insert time), in order to be eligible to register or vote therein. I further swear or affirm that my legal residence was established in the State of(the State where you now reside) on Month Day Year.

* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

Signed
 Address(Present address)
(City)(State)
 Subscribed and sworn to before me this day of
 (year)
(Notary Public, or other officer authorized to
 administer oaths.)
(County)
 My Commission expires
 MAIL BALLOT TO:
 NAME
 ADDRESS
 CITY STATE ZIP CODE

Penalties for Violations. Whoever swears falsely to any absent elector affidavit under this section may be fined not more than \$1,000 or imprisoned for not more than 6 months or both. Whoever intentionally votes more than once in an election may be fined not more than \$10,000 or imprisoned for not more than 3 years and 6 months or both.

....(Municipal Clerk)
(Municipality)

SECTION 2. 6.86 (1) (ac) of the statutes, as affected by 2011 Wisconsin Act 75, is amended to read:

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

SECTION 3. 6.86 (3) (a) 1. of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

6.86 (3) (a) 1. Any elector who is registered and who is hospitalized, may apply for and obtain an official ballot by agent. The agent may apply for and obtain a ballot for the hospitalized absent elector by presenting a form prescribed by the board and containing the required information supplied by the hospitalized elector and signed by that elector, unless the elector is unable to sign due to physical disability. In this case, the elector may authorize another elector to sign on his or her behalf. Any elector signing an application on another elector's behalf shall attest to a statement that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability. The agent shall present this statement along with all other information required under this subdivision. Except as authorized for an elector who has a confidential listing

under s. 6.47 (2) or as authorized under s. 6.87 (4) (b) 4., the agent shall present any proof of identification required under sub. (1) (ar) ~~and s. 6.87 (4) (b) 1.~~ The form shall include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the agent presented proof of identification to the clerk on behalf of the elector.

SECTION 4. 6.86 (6) of the statutes is created to read:

6.86 (6) Except as authorized in sub. (5) and s. 6.87 (9), if an elector mails or personally delivers an absentee ballot to the municipal clerk, the municipal clerk shall not return the ballot to the elector. An elector who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on election day.

SECTION 5. 6.869 of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

6.869 Uniform instructions. The board shall prescribe uniform instructions for municipalities to provide to absentee electors. The instructions shall include the specific means of electronic communication that an absentee elector may use to file an application for an absentee ballot and, if the absentee elector is required to register, to request a registration form or change his or her registration. The instructions shall include information concerning whether proof of identification is required to be presented or enclosed ~~under s. 6.86 (1) (ar) or 6.87 (4) (b) 1.~~ The instructions shall also include information concerning the procedure for correcting errors in marking a ballot and obtaining a replacement for a spoiled ballot. The procedure shall, to the extent possible, respect the privacy of each elector and preserve the confidentiality of each elector's vote.

SECTION 6. 6.87 (1) of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

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

SECTION 7. 6.87 (4) (b) 1. of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, the elector voting absentee shall make and subscribe to the certification before one witness who is an adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the ballot in a manner that will not disclose how the elector's vote is cast. The elector shall then, still in the presence of the witness, fold the ballots so each is separate and so that the elector conceals the markings thereon and deposit them in the proper envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that the elector conceals the markings thereon and deposit the ballot in the proper envelope. ~~Except as authorized in subs. 2. to 5. and s. 6.875 (6) and notwithstanding s. 343.43 (1) (f), if the elector has not enclosed a copy of his or her proof of identification with his or her application, the elector shall enclose a copy of the proof of identification in the manner provided in sub. (1) in the envelope, unless the elector is a military elector or an overseas elector or the elector has a confidential listing under s. 6.47 (2).~~ If proof of residence under s. 6.34 is required and the document enclosed by the elector under this subdivision does not constitute proof of residence under s. 6.34, the elector shall also enclose proof of residence under s. 6.34 in the envelope. Proof of residence is required if the elector is not a military elector or an overseas elector and the elector registered by mail and has not voted in an election in this state. If the elector requested a ballot by means of facsimile transmission or electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the envelope a copy of the request which bears an original signature of the elector. The elector may receive assistance under sub. (5). The return envelope shall then be sealed. The witness may not be a candidate. The envelope shall be mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots. If the envelope is mailed from a location outside the United States, the elector shall affix sufficient postage unless the ballot qualifies for delivery free of postage under federal law. Failure to return an unused ballot in a primary does not invalidate the ballot on which the elector's votes are cast. Return of more than one marked ballot in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an electronic voting system in a primary which is marked for candidates of more than one party invalidates all votes cast by the elector for candidates in the primary.

SECTION 8. 6.87 (4) (b) 2. of the statutes, as created by [2011 Wisconsin Act 23](#), is amended to read:

6.87 (4) (b) 2. Unless subd. 3. applies, if the absentee elector has applied for and qualified to receive absentee ballots automatically under s. 6.86 (2) (a), the elector may, in lieu of providing ~~a copy of~~ proof of identification ~~as required under subd. 1.~~, submit with his or her absentee ballot a statement signed by the same individual who witnesses voting of the ballot which contains the name and

address of the elector and verifies that the name and address are correct.

SECTION 9. 6.87 (4) (b) 3. of the statutes, as created by [2011 Wisconsin Act 23](#), is amended to read:

6.87 (4) (b) 3. If the absentee elector has received an absentee ballot from the municipal clerk by mail for a previous election, has provided ~~a copy of~~ proof of identification ~~as required under subd. 1.~~ with that ballot, and has not changed his or her name or address since providing that proof of identification, the elector is not required to provide ~~a copy of the~~ proof of identification ~~required under subd. 1.~~

SECTION 10. 6.87 (4) (b) 5. of the statutes, as created by [2011 Wisconsin Act 23](#), is amended to read:

6.87 (4) (b) 5. Unless subd. 3. or 4. applies, if the absentee elector resides in a qualified retirement home, as defined in s. 6.875 (1) (at), a qualified community-based residential facility, as defined in s. 6.875 (1) (as), a residential care apartment complex that is certified or registered under s. 50.034 (1), or an adult family home that is certified under s. 50.032 or licensed under s. 50.033 and the municipal clerk or board of election commissioners of the municipality where the complex, facility, or home is located does not send special voting deputies to visit the complex, facility, or home at the election under s. 6.875, the elector may, in lieu of providing proof of identification ~~required under subd. 1.~~, submit with his or her absentee ballot a statement signed by the same individual who witnesses voting of the ballot that contains the certification of an authorized representative of the complex, facility, or home that the elector resides in the complex, facility, or home and the complex, facility, or home is certified or registered as required by law, that contains the name and address of the elector, and that verifies that the name and address are correct.

SECTION 11. 6.88 (3) (a) of the statutes, as affected by [2011 Wisconsin Act 23](#), is amended to read:

6.88 (3) (a) Except in municipalities where absentee ballots are canvassed under s. 7.52, at any time between the opening and closing of the polls on election day, the inspectors shall, in the same room where votes are being cast, in such a manner that members of the public can hear and see the procedures, open the carrier envelope only, and announce the name of the absent elector or the identification serial number of the absent elector if the elector has a confidential listing under s. 6.47 (2). When the inspectors find that the certification has been properly executed, the applicant is a qualified elector of the ward or election district, and the applicant has not voted in the election, they shall enter an indication on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector. They shall then open the envelope containing the ballot in a manner so as not to deface or destroy the certification thereon. The inspectors shall take out the ballot without unfolding it or permitting it to

be unfolded or examined. Unless the ballot is cast under s. 6.95, the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of residence under s. 6.34 is required and no proof of residence is enclosed or the name or address on the document that is provided is not the same as the name and address shown on the poll list, ~~or if the elector is not a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), and the elector is required to provide a copy of proof of identification under s. 6.87 (4) (b) 1. and no copy of the proof of identification is enclosed or the name on the document cannot be verified by the inspectors,~~ the inspectors shall proceed as provided under s. 6.97 (2). The inspectors shall then deposit the ballot into the proper ballot box and enter the absent elector's name or voting number after his or her name on the poll list in the same manner as if the elector had been present and voted in person.

SECTION 12. 6.97 (title) of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

6.97 (title) Voting procedure for individuals not providing required proof of residence or identification.

SECTION 13. 6.97 (2) of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

6.97 (2) Whenever any individual who votes by absentee ballot is required to provide proof of residence in order to be permitted to vote and does not provide the required proof of residence under s. 6.34, the inspectors shall treat the ballot as a provisional ballot under this section. ~~Whenever any individual, other than a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), an individual who has a confidential listing under s. 6.47 (2), or an individual who is exempted under s. 6.87 (4) or s. 6.875 (6), votes by absentee ballot and does not enclose a copy of the proof of identification under s. 6.87 (4) (b) 1., the inspectors shall similarly treat the ballot as a provisional ballot under this section.~~ Upon removing the ballot from the envelope, the inspectors shall write on the back of the ballot the serial number of the individual corresponding to the number kept at the election on the poll list or other list maintained under s. 6.79 and the notation "s. 6.97". The inspectors shall indicate on the list the fact that the individual is required to provide proof of residence ~~or to provide, or provide a copy of, proof of identification as required under s. 6.87 (4) (b) 1.~~ but did not do so. The inspectors shall promptly notify the municipal clerk or executive director of the municipal board of election commissioners of the name, address, and serial number of the individual. The inspectors shall then place the ballot inside an envelope on which the name and serial number of the elector is entered and shall place the envelope in a separate carrier envelope.

SECTION 14. 6.97 (3) of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

6.97 (3) (a) Whenever an elector who votes by provisional ballot under sub. (1) or (2) because the elector does not provide proof of identification ~~or a copy thereof~~ under s. 6.79 (2), or 6.86 (1) (ar), ~~or 6.87 (4) (b) 1.~~ later appears at the polling place where the ballot is cast before the closing hour and provides the proof of identification ~~or a copy thereof~~, the inspectors shall remove the elector's ballot from the separate carrier envelope, shall note on the poll list that the elector's provisional ballot is withdrawn, and shall deposit the elector's ballot in the ballot box. If the inspectors have notified the municipal clerk or executive director of the board of election commissioners that the elector's ballot was cast under this section, the inspectors shall notify the clerk or executive director that the elector's provisional ballot is withdrawn.

(b) Whenever the municipal clerk or executive director of the municipal board of election commissioners is informed by the inspectors that a ballot has been cast under this section, the clerk or executive director shall promptly provide written notice to the board of canvassers of each municipality, special purpose district, and county that is responsible for canvassing the election of the number of ballots cast under this section in each ward or election district. The municipal clerk or executive director then shall determine whether each individual voting under this section is qualified to vote in the ward or election district where the individual's ballot is cast. If the elector is required to provide proof of identification ~~or a copy thereof~~ under s. 6.79 (2), or 6.86 (1) (ar), ~~or 6.87 (4) (b) 1.~~ and fails to do so, the elector bears the burden of correcting the omission by providing the proof of identification ~~or copy thereof~~ at the polling place before the closing hour or at the office of the municipal clerk or board of election commissioners no later than 4 p.m. on the Friday after the election. The municipal clerk or executive director shall make a record of the procedure used to determine the validity of each ballot cast under this section. If, prior to 4 p.m. on the Friday after the election, the municipal clerk or executive director determines that the individual is qualified to vote in the ward or election district where the individual's ballot is cast, the municipal clerk or executive director shall notify the board of canvassers for each municipality, special purpose district and county that is responsible for canvassing the election of that fact.

(c) A ballot cast under this section by an elector for whom proof of identification ~~or a copy thereof~~ is required under s. 6.79 (2), or 6.86 (1) (ar), ~~or 6.87 (4) (b) 1.~~ shall not be counted unless the municipal clerk or executive director of the board of election commissioners provides timely notification that the elector has provided proof of identification ~~or a copy thereof~~ under this section.

SECTION 15. 7.08 (12) of the statutes, as created by 2011 Wisconsin Act 23, is amended to read:

7.08 (12) ASSISTANCE IN OBTAINING PROOF OF IDENTIFICATION. Engage in outreach to identify and contact

groups of electors who may need assistance in obtaining or renewing a document that constitutes proof of identification for voting under s. 6.79 (2) (a), 6.86 (1) (a), or 6.87 (4) (b) 1., and provide assistance to the electors in obtaining or renewing that document.

SECTION 16. 7.52 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 23, is amended to read:

7.52 (3) (a) The board of absentee ballot canvassers shall first open the carrier envelope only, and, in such a manner that a member of the public, if he or she desired, could hear, announce the name of the absent elector or the identification serial number of the absent elector if the elector has a confidential listing under s. 6.47 (2). When the board of absentee ballot canvassers finds that the certification has been properly executed and the applicant is a qualified elector of the ward or election district, the board of absentee ballot canvassers shall enter an indication on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector. The board of absentee ballot canvassers shall then open the envelope containing the ballot in a manner so as not to deface or destroy the certification thereon. The board of absentee ballot canvassers shall take out the ballot without unfolding it or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the board of absentee ballot

canvassers shall verify that the ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of residence is required and no proof of residence is enclosed or the name or address on the document that is provided is not the same as the name and address shown on the poll list, or if the elector is not a military elector, as defined in s. 6.34 (1) (a), or an overseas elector, as defined in s. 6.34 (1) (b), and the elector is required to provide, or to provide a copy of, proof of identification under s. 6.87 (4) (b) 1. and no copy of the proof of identification is enclosed or the name on the document cannot be verified by the canvassers, the board of absentee ballot canvassers shall proceed as provided under s. 6.97 (2). The board of absentee ballot canvassers shall mark the poll list number of each elector who casts an absentee ballot on the back of the elector's ballot. The board of absentee ballot canvassers shall then deposit the ballot into the proper ballot box and enter the absent elector's name or poll list number after his or her name on the poll list.

SECTION 17. Initial applicability.

(1) The treatment of sections 6.18, 6.86 (1) (ac) and (3) (a) 1., 6.869, 6.87 (1) and (4) (b) 1., 2., 3., and 5., 6.88 (3) (a), 6.97 (2) and (3), 7.08 (12), and 7.52 (3) (a) of the statutes first applies with respect to absentee ballot applications filed on the effective date of this subsection.