



State of Wisconsin
2021 - 2022 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 170**

April 27, 2021 - Offered by Representative TITTL.

1 **AN ACT to amend** 7.41 (2), 9.01 (3) and 12.60 (1) (b); and **to create** 7.41 (4m) and
2 12.13 (2) (b) 9. of the statutes; **relating to:** election observers and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

Current law allows any member of the public to observe the conduct of an election at a polling place or at a site for voting by absentee ballot in person. An individual may also observe the canvassing of absentee ballots. Under current law, an election observer must print his or her name and sign and date a log maintained by the municipal clerk or chief inspector. In addition, the clerk or chief inspector must designate an observation area that is not less than three feet from nor more than eight feet from the table where voters announce their name and address and not less than three feet from nor more than eight feet from the table where individuals are registered to vote. The clerk or chief inspector must establish the observation area at a location where an observer may readily observe all aspects of the voting process. Finally, the clerk or chief inspector may remove an election observer who disrupts the voting process, engages in electioneering, or posts election-related material.

Current law also requires a board of canvassers to publicly conduct all steps of a recount. During the conduct, the person who petitioned for the recount, the opposing candidates, and other interested persons are entitled to be present in person and by counsel to observe the proceedings.

This bill requires the municipal clerk, chief inspector, and board of canvassers to provide election observers uniform and nondiscriminatory access to all stages of the election process, including recounts. Under the bill, an election observer must wear a badge with the first initial and last name of the observer and the name of the organization, if any, the observer is representing. The observer may not wear any campaign material advocating voting for or against a candidate or for or against any position on a ballot question. An observer who violates this prohibition may be expelled from the location where the observer is observing election procedures. However, an individual observing a recount may wear a name tag or badge that includes a candidate's campaign logo or the name of the organization that the observer represents. In addition, an election observer may not interfere with a voter nor hinder an election official in the performance of his or her duties.

The bill also expands the observation area required under current law so that it is not more than three feet from the table where voters announce their name and address and not more than three feet from the table where individuals are registered to vote. Similarly, with respect to recounts, the bill requires the board of canvassers to establish observation areas that are no more than three feet from a table where ballots and other election-related materials are being examined and processed.

Finally, under the bill, any person who intentionally obstructs an election observer's access to observe election procedures may be fined up to \$1,000 or imprisoned for up to six months or both.

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.

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

1 **SECTION 1.** 7.41 (2) of the statutes is amended to read:

2 7.41 (2) The chief inspector or municipal clerk may restrict the location of any
3 individual exercising the right under sub. (1) to certain areas within a polling place,
4 the clerk's office, or alternate site under s. 6.855. The chief inspector or municipal
5 clerk shall clearly designate observation areas for election observers under sub. (1).
6 The observation areas shall be not less more than 3 feet from ~~not more than 8 feet~~
7 ~~from~~ the table at which electors announce their name and address to be issued a voter
8 number at the polling place, office, or alternate site and not less more than 3 feet from
9 ~~not more than 8 feet from~~ the table at which a person may register to vote at the

1 polling place, office, or alternate site. The observation areas shall be so positioned
2 to permit any election observer to readily observe all public aspects of the voting
3 process.

4 **SECTION 2.** 7.41 (4m) of the statutes is created to read:

5 7.41 **(4m)** (a) The municipal clerk, chief inspector, and board of canvassers
6 shall provide election observers uniform and nondiscriminatory access to all stages
7 of the election process, including the certification of election technologies, absentee
8 voting in person, canvassing, elector appeals, vote tabulation, and recounts.

9 (b) 1. An individual who is observing an election process shall wear a badge
10 with the first initial and last name of the individual.

11 2. a. An election observer may not wear any campaign material advocating
12 voting for or against a candidate or for or against any position on a ballot question,
13 except that this subdivision does not apply to a name tag or badge worn by an
14 individual observing a recount under s. 9.01 that includes a candidate's campaign
15 logo or the name of the organization that the observer represents.

16 b. An election observer who violates this subdivision may be expelled by the
17 municipal clerk, chief inspector, or board of canvassers.

18 3. An election observer may not interfere with any elector in the preparation
19 or casting of the elector's ballot or hinder or prevent the performance of the duties
20 of any election official.

21 **SECTION 3.** 9.01 (3) of the statutes is amended to read:

22 9.01 **(3)** REPRESENTATION AND OBSERVATION. The petitioner, all opposing
23 candidates and interested persons shall be entitled to be present in person and by
24 counsel to observe the proceedings. The board of canvassers shall establish

1 observation areas that are no more than 3 feet from a table where ballots and other
2 election-related materials are being examined and processed.

3 **SECTION 4.** 12.13 (2) (b) 9. of the statutes is created to read:

4 12.13 (2) (b) 9. Intentionally obstructs an election observer's access to observe
5 election procedures. Each occurrence of a violation of this subdivision shall be
6 charged separately.

7 **SECTION 5.** 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. or
9 9., (3) (b), (c), (d), (g), (i), (n) to (x), (ze), (zm) or (zn) may be fined not more than \$1,000,
10 or imprisoned not more than 6 months or both.

11 (END)