



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4175/1

MPG:emw

## 2023 ASSEMBLY BILL 494

October 16, 2023 - Introduced by Representatives DUCHOW, ARMSTRONG, DITTRICH, EDMING, GOEBEN, KITCHENS, MAGNAFICI, MAXEY, MURPHY, NEDWESKI, O'CONNOR and RETTINGER, cosponsored by Senator KNODL. Referred to Committee on Campaigns and Elections.

**AN ACT** *to repeal* 6.87 (4) (b) 2.; *to amend* 6.18 (intro.), 6.86 (1) (ac), 6.86 (2)

(a), 6.86 (2) (b), 6.87 (1), 6.87 (2) (intro.) and 12.60 (1) (b); and *to create* 6.86 (2) (c) and 12.13 (3) (ig) of the statutes; **relating to:** status as an indefinitely confined voter for purposes of automatically receiving absentee ballots and providing a 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 automatically sent to the voter for every election. The voter is not required to submit a copy of his or her voter identification with the request to automatically receive absentee ballots. 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.

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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 is expected to last longer than one year.

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 and requires that the municipal clerk affirm in writing on the application form prescribed by the commission that the applicant provided proof of identification with his or her application or provided certain information and documentation required under the bill if the applicant did not provide proof of identification.

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 requests 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 casts an absentee ballot in person at the municipal clerk's office or 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 automatically receiving absentee ballots.

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.

For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

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

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

**6.18 Former residents.** (intro.) 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 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:

**SECTION 2.** 6.86 (1) (ac) of the statutes 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

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bearing an original signature of the elector as provided in s. 6.87 (4). Except as authorized in ss. 6.87 (4) (b) ~~2, 3,~~ 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 (2) (a) of the statutes is amended to read:

6.86 (2) (a) An elector who is indefinitely confined and cannot travel independently without significant burden because of ~~age frailty~~, physical illness, or ~~infirmity or is disabled for an indefinite period~~ a disability that is expected to last longer than one year may ~~by signing a statement to that effect require that~~ apply to ~~have~~ an absentee ballot ~~be~~ sent to the elector automatically for every election. The indefinitely confined status application form and instructions shall be prescribed by the commission, shall be separate and distinct from any other application for absentee ballots prescribed by the commission, except that any other such application shall clearly and prominently in at least 12-point font indicate that a voter who is indefinitely confined may apply for indefinitely confined status by completing a separate form, shall clearly and prominently in at least 12-point font state the penalty for making a false statement in the application to receive indefinitely confined status, and shall be furnished upon request to any elector by each municipality. The envelope containing the absentee ballot shall be clearly marked as not forwardable. If any elector is no longer indefinitely confined, the elector shall so notify the municipal clerk, and the municipal clerk shall remove the elector from the indefinitely confined mailing list. The existence of an outbreak or

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epidemic of a communicable disease in an elector's community does not qualify the elector as indefinitely confined for purposes of receiving absentee ballots automatically under this subsection.

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

6.86 (2) (b) The mailing list established under this subsection shall be kept current through all possible means. If an elector fails to cast and return an absentee ballot ~~received~~ requested under this subsection with respect to a spring or general election, the clerk shall notify the elector by 1st class letter or postcard that his or her name will be removed from the mailing list unless the clerk receives a renewal of the application within 30 days of the notification. The clerk shall remove from the list the name of each elector who does not apply for renewal within the 30-day period. The clerk shall remove the name of any other elector from the list upon request of the elector ~~or~~, upon receipt of reliable information that ~~an~~ the elector is no longer ~~qualifies for the service~~ indefinitely confined and cannot travel independently without significant burden because of frailty, physical illness, or a disability that is expected to last longer than one year, if the elector casts an absentee ballot in person at the municipal clerk's office, or if the elector votes at the polls in any election. The clerk shall notify the elector of such action not taken at the elector's request within 5 days, if possible.

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

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

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

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

4. The clerk shall affirm in writing on the application form prescribed by the commission under par. (a) that the elector provided proof of identification with his or her application or that the elector provided the information and documentation required under subd. 2. or 3. if the elector did not provide proof of identification.

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

**6.87 (1)** Upon proper request made within the period prescribed in s. 6.86, the

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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 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 (2) (intro.) of the statutes is amended to read:

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

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

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

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

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

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

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

**SECTION 11. Nonstatutory provisions.**

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

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

**(END)**