

State of Wisconsin



2021 Senate Bill 204

Date of enactment:
Date of publication*:

2021 WISCONSIN ACT

AN ACT *to repeal* 6.87 (4) (b) 3.; *to renumber and amend* 6.86 (1) (ar); *to amend* 6.18 (intro.), 6.30 (5), 6.86 (1) (ac), 6.86 (2m) (a), 6.87 (1), 6.87 (2) (intro.), 6.87 (4) (b) 1., 6.87 (4) (b) 2., 6.87 (4) (b) 5. and 12.60 (1) (a); *to repeal and recreate* 6.86 (2); and *to create* 6.86 (1) (as), 6.86 (8), 6.88 (4) and 12.13 (3) (ig) of the statutes; **relating to:** absentee ballot applications, unsolicited mailing or transmission of absentee ballot applications and absentee ballots, canvassing absentee ballots, electronic voter registration, and providing a penalty.

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 autho-

rized 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. 6.30 (5) of the statutes is amended to read:

6.30 (5) BY ELECTRONIC APPLICATION. An eligible elector who holds a current and valid operator's license issued under ch. 343 or a current and valid identification card issued under s. 343.50 may register electronically in the manner prescribed by the commission. The commission shall maintain on the Internet a secure registration form that enables the elector to enter the information required under s. 6.33 (1) electronically. An elector who registers electronically under this subsection must authorize the commission to obtain from the department of transportation an electronic copy of the elector's signature, which signature shall constitute an affirmation that all information provided by the elector is correct and shall have the same effect as if the elector had signed the application personally. The commission shall include on the registration form a place for the elector to give this authorization. Upon submittal of the electronic application, the commission shall obtain from the department of

* Section 991.11, WISCONSIN STATUTES: 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."

transportation a copy of the electronic signature of the elector. The commission shall maintain ~~the a version of the completed~~ application on file ~~and, which shall contain the elector's electronic signature, and~~ shall notify the municipal clerk or board of election commissioners of the municipality where the elector resides of its receipt of each completed application. The commission shall also permit any elector who has a current and valid operator's license issued to the elector under ch. 343 or a current and valid identification card issued under s. 343.50 to make changes in his or her registration at the same Internet site that is used by electors for original registration under this subsection. An elector shall attest to the correctness of any changes in the same manner as provided in this subsection for information entered on an application for original registration.

SECTION 3. 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~~ shall contain a copy of the applicant's original written 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) or contain the applicant's electronic signature on the application form in portable document format (PDF).~~ Except as authorized in ss. 6.87 (4) (b) 2. ~~to 5., 4., and 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 4. 6.86 (1) (ar) of the statutes is renumbered 6.86 (1) (ar) 1. and amended to read:

6.86 (1) (ar) 1. Except as authorized in s. 6.875 (6), the municipal clerk shall not issue an absentee ballot unless the clerk receives ~~a written application therefor from a qualified elector of the municipality a completed application in the form prescribed by the commission under par. (as) that contains the elector's original written signature, or, if application is made under par. (ac), that contains the elector's electronic signature or a copy of the elector's original written signature, or the signature of a person the elector authorizes to sign on the elector's behalf under par. (ag) or sub. (3) (a).~~ The clerk shall retain each absentee ballot application until destruction is authorized under s. 7.23 (1). A municipal clerk issuing an absentee ballot contrary to this subdivision is guilty of a Class I felony.

2. Except as authorized in s. 6.79 (6) and (7), if a qualified elector applies for an absentee ballot in person at the clerk's office, the clerk shall not issue the elector an absentee ballot unless the elector presents proof of identi-

fication. The clerk shall verify that the name on the proof of identification presented by the elector conforms to the name on the elector's application and shall verify that any photograph appearing on that document reasonably resembles the elector. The clerk shall then enter his or her initials on the certificate envelope indicating that the absentee elector presented proof of identification to the clerk.

SECTION 5. 6.86 (1) (as) of the statutes is created to read:

6.86 (1) (as) The absentee ballot application form and instructions shall be prescribed by the commission and shall be separate and distinct from the certificate envelope prescribed in s. 6.87 (2). The application shall require the elector to certify facts establishing that he or she is qualified to vote in the election at the municipality of his or her legal voting residence and shall include at least all of the following information:

1. The elector's municipality and county of residence.
2. The elector's name, date of birth, and contact information, including as applicable the elector's telephone number, fax number, and electronic mail address.
3. The street address of the elector's legal voting residence.
4. The election at which the elector intends to vote absentee.
5. Whether the elector is a military or overseas elector.
6. The elector's confidential identification serial number if the elector has obtained a confidential listing under s. 6.47 (2).
7. The lawful method by which the elector prefers to receive the absentee ballot.
8. Whether the elector is hospitalized for purposes of sub. (3).

SECTION 6. 6.86 (2) of the statutes is repealed and recreated to read:

6.86 (2) (a) An elector may apply for indefinitely confined status for purposes of this subsection by filing a statement with the municipal clerk affirming that the elector is indefinitely confined because of his or her age or physical illness or infirmity or is disabled for an indefinite period. The existence anywhere in this state of a public health emergency, as defined in s. 323.02 (16), a disaster, as defined in s. 323.02 (6), or an epidemic of a communicable disease does not qualify an elector as indefinitely confined under this subsection. The statement shall contain the name, address, date of signature, and signature of the elector.

(b) 1. An indefinitely confined elector may, by written application filed with the municipal clerk of the municipality where the elector resides, request that an absentee ballot be sent to the elector automatically for every election that is held within the same calendar year in which the application is filed.

2. Every application filed under this paragraph shall be accompanied by a copy of the elector's proof of identification, except that if an elector does not possess proof of identification, the elector shall submit with his or her application a sworn written statement from a U.S. citizen who is 18 years of age or older affirming the identity of the elector. The commission shall prescribe the form of the statement. The statement shall contain the name, address, date of signature, and signature of the elector and the name, address, date of signature, and signature of the person affirming the elector's identity. The statement shall specify that intentionally providing false information on or using or attempting to use the sworn statement as a means of not providing a copy of proof of identification when the elector possesses a valid proof of identification is a Class I felony.

3. An elector who submits an application under this paragraph by electronic means is not required to provide proof of identification under subd. 2. 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).

(c) The commission shall prescribe the application forms and instructions for use under pars. (a) and (b), and each municipal clerk shall provide the form and instructions, upon request, to any elector. The forms for use under this subsection, including the application for indefinitely confined voting status and sworn statement attesting to the elector's identity, shall be unique to the procedures under this subsection.

(d) Any absentee ballot mailed under this subsection shall be clearly marked as not forwardable.

(e) An elector who is no longer indefinitely confined because of age, illness, infirmity, or disability shall immediately notify the clerk of the municipality where the elector resides.

(f) The municipal clerk shall maintain a list of the electors of the municipality who are indefinitely confined for purposes of this subsection. The clerk shall remove the name of an elector from the list, cease sending absentee ballots to the elector, and notify the elector of his or her removal from the list, if any of the following applies:

1. The elector notifies the clerk that the elector is no longer indefinitely confined.

2. The elector fails to cast and return an absentee ballot received under this subsection for any election and fails to renew the application for indefinitely confined voting status under par. (a) within 30 days after receiving notification from the clerk that the clerk will remove the elector's name from the mailing list unless the elector renews the elector's application.

3. The clerk receives reliable information that the elector no longer qualifies as indefinitely confined under par. (a) or (b) and verifies the accuracy of that information.

4. The elector requests to be removed from the list.

5. The elector fails to submit an application for indefinitely confined status under par. (a) within 4 years after the date of the elector's most recent application under that paragraph.

SECTION 7. 6.86 (2m) (a) of the statutes is amended to read:

6.86 (2m) (a) Except as provided in this subsection, any elector other than an elector who receives an absentee ballot under sub. (2) or s. 6.22 (4) or 6.24 (4) (c) may by written application filed with the municipal clerk of the municipality where the elector resides require that an absentee ballot be sent to the elector automatically for every a primary and its associated election that is held within the same calendar year in which the application is filed. An elector must submit a separate application for each primary and the election associated with that primary, and the application shall specify the primary and election to which the application applies. The application form and instructions shall be prescribed by the commission, and furnished upon request to any elector by each municipal clerk. The municipal clerk shall thereupon mail an absentee ballot to the elector for ~~all elections that are held in the municipality during the same calendar year that the application is filed~~ the primary and election to which the application applies, except that the clerk shall not send an absentee ballot for an election if the elector's name appeared on the registration list in eligible status for a previous election following the date of the application but no longer appears on the list in eligible status. The municipal clerk shall ensure that any envelope containing the absentee ballot is clearly marked as not forwardable. If an elector who files an application under this subsection no longer resides at the same address that is indicated on the application form, the elector shall so notify the municipal clerk. The municipal clerk ~~shall discontinue mailing absentee ballots~~ may not mail an absentee ballot to an elector under this subsection upon receipt of reliable information that the elector no longer qualifies as an elector of the municipality. In addition, the municipal clerk ~~shall discontinue mailing absentee ballots~~ may not mail an absentee ballot to an elector under this subsection for the election specified in the elector's application if the elector fails to return any the absentee ballot mailed to the elector. ~~The municipal clerk shall notify the elector of any such action not taken at the elector's request within 5 days, if possible. An elector who fails to cast an absentee ballot but who remains qualified to receive absentee ballots under this subsection may then receive absentee ballots for subsequent elections by notifying the municipal clerk that the elector wishes to continue receiving absentee ballots for subse-~~

quent elections. for the primary specified in the elector's application.

SECTION 8. 6.86 (8) of the statutes is created to read:

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) No committee, as defined in s. 11.0101 (6), may send or transmit an absentee ballot application to an elector that contains a return address for the application other than the address of the municipal clerk or board of election commissioners of the municipality where the elector is registered to vote.

SECTION 9. 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 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, which may not be preprinted or stamped, 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 10. 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 write 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 write 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 exempted from providing proof of identifica-

tion under sub. (4) (b) 2. ~~or 3.~~ The certificate shall be in substantially the following form:

SECTION 11. 6.87 (4) (b) 1. of the statutes is amended to read:

6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, an elector voting absentee, other than a military elector or an overseas elector, shall make and subscribe to the certification before one witness who is an adult U.S. citizen. A military elector or an overseas elector voting absentee, regardless of whether the elector qualifies as a resident of this state under s. 6.10, shall make and subscribe to the certification before one witness who is an adult but who need not be a 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. 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. Except as provided in s. 6.34 (2m), proof of residence is required if the elector is not a military elector or an overseas elector and the elector registered by mail or by electronic application 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 written 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 12. 6.87 (4) (b) 2. of the statutes is amended to read:

6.87 (4) (b) 2. ~~Unless sub. 3. applies, if~~ 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 proof of identification, 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 13. 6.87 (4) (b) 3. of the statutes is repealed.

SECTION 14. 6.87 (4) (b) 5. of the statutes 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), or a residential care facility, as defined in s. 6.875 (1) (bm), and the municipal clerk or board of election commissioners of the municipality where the facility or home is located does not send special voting deputies to visit the facility or home at the election under s. 6.875, the elector may, in lieu of providing proof of identification, 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 facility or home that the elector resides in the facility or home and the 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 15. 6.88 (4) of the statutes is created to read:

6.88 (4) At 9 p.m. on election day, and at least hourly thereafter while absentee ballots are being canvassed, the municipal clerk or his or her designee shall post, at his or her office and on the Internet at a site announced by the clerk before canvassing begins, a statement that shows as of the time of posting the number of absentee ballots that the clerk has mailed or transmitted to electors, the number of absentee ballots that have been returned to the clerk, and the number of absentee ballots counted. The posting may not include the names or addresses of any electors.

SECTION 16. 12.13 (3) (ig) of the statutes is created to read:

12.13 (3) (ig) Do any of the following:

1. Falsely make any statement for the purpose of qualifying as indefinitely confined under s. 6.86 (2) (a).

2. Intentionally providing false information on or using or attempting to use the sworn statement under s. 6.86 (2) (b) 2. as a means of not providing a copy of proof of identification when the elector possesses a valid proof of identification, as defined under s. 5.02 (16c).

3. Falsely affirming another person's identity for purposes of s. 6.86 (2) (b) 2.

SECTION 17. 12.60 (1) (a) of the statutes is amended to read:

12.60 (1) (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3) (a), (e), (f), (ig), (j), (k), (L), (m), (y) or (z) is guilty of a Class I felony.

SECTION 18. Nonstatutory provisions.

(1) The elections commission shall facilitate the removal, no later than the first day of the 3rd month beginning after the effective date of this subsection, from the mailing list maintained under s. 6.86 (2), 2019 stats., of each elector who applied for automatic receipt of absentee ballots under s. 6.86 (2) (a), 2019 stats., during the period beginning on March 12, 2020, and ending on November 3, 2020.

(2) No elector who under sub. (1) is removed from the mailing list under s. 6.86 (2), 2019 stats., may receive an absentee ballot under that subsection unless the elector reapplies for automatic receipt of absentee ballots as provided under this act.

SECTION 19. Initial applicability.

(1) ELECTRONIC REGISTRATIONS. The treatment of s. 6.30 (5) first applies to electronic registrations initiated or updated on the effective date of this subsection.

SECTION 20. Effective dates. This act takes effect on the day after publication, except as follows:

(1) ELECTRONIC REGISTRATIONS. The treatment of s. 6.30 (5) and SECTION 19 (1) of this act take effect on the first day of the 4th month beginning after publication.