



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 291**

February 19, 2024 - Offered by Representative KRUG.

1 **AN ACT to amend** 947.0125 (1); and **to create** 12.09 (4), 19.36 (14), 66.0512,
2 940.20 (4m), 947.0125 (1) (b), 947.0125 (2) (g) and 995.50 (2) (am) 5. of the
3 statutes; **relating to:** an election official’s personal information; battery
4 against election officials; whistleblower protection for municipal clerks, county
5 clerks, and election officials who witness and report election fraud or
6 irregularities; and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to current law regarding election officials.

Public access to records identifying an election official

The bill prohibits public access to records that contain the personal identifying information of election officials during the term for which the individual serves as an election official, except that a public records custodian may provide access to the name and city and state of residence of an election official. Under the bill, “personal identifying information” includes an individual’s address and telephone number.

Current law provides a number of similar exceptions for providing public access to records. For example, current law limits access to records containing personal information regarding individuals who hold a state or local public office or the

personal information of applicants for a public position. Current law also allows access to certain records that are not otherwise accessible. For example, state agencies and local units of government may provide records to assist legislative committees. The bill does not affect the operation of that provision nor other similar provisions.

Causing bodily harm to an election official

Under current law, a person who intentionally causes bodily harm to another person commits the crime of simple battery and is guilty of a Class A misdemeanor. Current law provides greater penalties for special circumstances battery, which is defined as intentionally causing or threatening to cause bodily harm to certain persons. For example, under current law, a person who intentionally causes bodily harm to a public officer to influence his or her action or as a result of an action he or she took is guilty of a Class I felony. The bill makes it a Class I felony to intentionally cause bodily harm to an election official, county clerk, or municipal clerk who is acting in his or her official capacity.

Threatening an election official

Current law prohibits an individual from harassing another individual over the phone or over email or other computer messaging system. The penalties for such actions range from a Class B forfeiture to a Class B misdemeanor depending on the act, the intent, and the circumstances.

This bill creates a Class B misdemeanor for an actor who, with intent to threaten or abuse an election official or an election official's family member, distributes via social media the official's or family member's personal identifying information if the actor knows or should know that the distribution would likely result in the official or family member being subject to unwanted physical contact or injury. Under the bill, a violation of this provision is also considered an invasion of privacy. Under current law, an individual whose privacy is unreasonably invaded is entitled to equitable relief to prevent and restrain such invasion, compensatory damages, and reasonable attorney fees.

Current law provides that no person may personally or through an agent make use of or threaten to make use of force in order to induce or compel a voter to vote or refrain from voting or to vote or refrain from voting for or against a particular candidate. The penalty for such actions is a Class I felony. This bill additionally provides that no person may personally or through an agent make use of or threaten to make use of force in order to induce or compel an election official to act contrary to his or her official duties under current law.

Whistleblower protections

The bill provides whistleblower protection for municipal clerks, county clerks, and election officials who witness and report election fraud or irregularities. Under the bill, "municipal clerk" means a city clerk, town clerk, village clerk, and the executive director of the city election commission and their authorized representatives, as well as, in appropriate circumstances, the clerk of a school district. Under the bill, "county clerk" includes the executive director of the county board of election commissioners and their authorized representatives. Also, under

the bill, “election official” means an individual who is charged with any duties relating to the conduct of an election.

The bill prohibits employment discrimination against a municipal clerk, county clerk, or election official, including by being discharged, disciplined, or demoted, as a reprisal because the clerk or election official lawfully reported, or is believed to have reported, witnessing what the clerk or election official reasonably believed to be election fraud or irregularities.

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

1 **SECTION 1.** 12.09 (4) of the statutes is created to read:

2 12.09 (4) No person may personally or through an agent make use of or
3 threaten to make use of force, violence, or restraint in order to induce or compel an
4 election official to act contrary to his or her official duties under this chapter and chs.
5 5 to 10.

6 **SECTION 2.** 19.36 (14) of the statutes is created to read:

7 19.36 (14) IDENTITIES OF ELECTION OFFICIALS OR ELECTION REGISTRATION OFFICIALS.
8 Unless access is specifically authorized or required by statute, neither a municipal
9 clerk, as defined in s. 5.02 (10), nor a county clerk, as defined in s. 5.02 (2), shall
10 provide access under s. 19.35 (1) to records containing the personal identifying
11 information, as defined in s. 943.201 (1) (b) 2. and 3., of an election official, as defined
12 in s. 5.02 (4e), during the term for which the individual serves as an election official,
13 except that an authority may provide access to the name of an election official and
14 the city and state where the individual resides.

15 **SECTION 3.** 66.0512 of the statutes is created to read:

16 **66.0512 Whistleblower protection for certain disclosures made by**
17 **municipal clerks.** No municipal clerk, as defined in s. 5.02 (10), county clerk, as
18 defined in s. 5.02 (2), or election official, as defined in s. 5.02 (4e), may be discharged,

1 disciplined, demoted, or otherwise discriminated against in regard to his or her
2 employment as a clerk or election official, or threatened with any such treatment, as
3 a reprisal because the clerk or election official lawfully reported, or is believed to have
4 reported, witnessing what the clerk or election official reasonably believed to be
5 election fraud or irregularities during his or her course of employment as a clerk or
6 election official. For purposes of this section, “lawfully reported” means reported in
7 the manner prescribed by the elections commission under s. 7.15 (1) (g).

8 **SECTION 4.** 940.20 (4m) of the statutes is created to read:

9 **940.20 (4m) BATTERY TO ELECTION OFFICIALS, ELECTION REGISTRATION OFFICIALS,**
10 **OR CLERKS.** (a) In this subsection:

- 11 1. “County clerk” has the meaning given in s. 5.02 (2).
- 12 2. “Election official” has the meaning given in s. 5.02 (4e).
- 13 3. “Municipal clerk” has the meaning given in s. 5.02 (10).

14 (b) Whoever intentionally causes bodily harm to an election official, county
15 clerk, or municipal clerk who is acting in his or her official capacity is guilty of a Class
16 I felony if the person knows or has reason to know that the victim is an election
17 official, county clerk, or municipal clerk and the victim does not consent to the harm.

18 **SECTION 5.** 947.0125 (1) of the statutes is amended to read:

19 **947.0125 (1)** In this section, ~~“message”~~:

20 (a) “Message” means any transfer of signs, signals, writing, images, sounds,
21 data or intelligence of any nature, or any transfer of a computer program, as defined
22 in s. 943.70 (1) (c).

23 **SECTION 6.** 947.0125 (1) (b) of the statutes is created to read:

24 **947.0125 (1) (b)** “Social media” means any online electronic medium, including
25 a live-chat system or an electronic dating service, that does all of the following:

