



DAVID STEFFEN

STATE REPRESENTATIVE • 4TH ASSEMBLY DISTRICT

April 26, 2021

Testimony to the Assembly Committee on Campaign and Elections on Assembly Bill 178

Chair Brandtjen and Committee Members,

As you know, the 2020 election cycle brought unprecedented challenges to our election process. Faith in elections is the foundation of our legitimacy as a government and is a prerequisite for the peaceful transfer of power. Unfortunately, some of our election laws in Wisconsin are vague and a small fraction of election officials have exploited that vagueness to violate the clear intent of the law.

It is our intent that this legislation restore the integrity to our elections by ensuring absentee ballots are not issued unless a voter submits a written application to request one.

Thank you for the opportunity to speak in favor of this bill I encourage you to join me in supporting this legislation.



Alberta Darling
Wisconsin State Senator | District 8

**Testimony before Assembly Committee on Campaigns and Elections
Tuesday, April 27, 2021
Assembly Chambers**

Assembly Bill 178

Chairwoman Brandtjen and Committee Members,

In Wisconsin, voters have multiple ways to vote early. A voter can vote absentee by mail, or voters can request and vote absentee in person. While both options are called “absentee” by the Wisconsin Election Commission, the agency treats them differently.

Current law states a voter who wishes to vote absentee may make a written application to their clerk or municipality requesting a ballot. This resulted in a non-uniform process throughout our state. There was confusion on what form, if any, they needed to fill out and what information is required.

While a form is required to request an absentee ballot, according to a WEC spokesperson “...there are no requirements in state law on the nature of absentee ballot applications, leaving that detail to the commission to decide. And the commission has required an application for every ballot.” –Milwaukee Journal Sentinel, December 10, 2020.

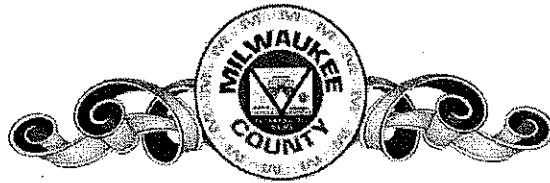
While current law also does not prescribe a specific form of written application for requesting an absentee ballot, the Wisconsin Elections Commission created form EL-122 as their official absentee ballot application certificate.

Assembly Bill 178 clarifies the process and intent of our voting laws to require a separate and distinct application form that contains the information currently asked for in the form EL-122.

AB 178 requires the same information from the EL-122 form including:

- Voter’s municipality and county of residence
- Their name, date of birth, and contact information
- The street address of their legal voting address
- The election which the voter intends to vote absentee
- Whether the voter is a military or overseas voter
- The voter’s confidential identification serial number if the voter has a confidential listing
- The lawful method by which the voter prefers to receive the absentee ballot
- Whether the voter is hospitalized

It takes only a few seconds to fill out an EL-122 and makes the process for voting absentee consistent for all voters. Thank you.



GEORGE L. CHRISTENSON
MILWAUKEE COUNTY CLERK

Assembly Committee on Campaigns and Elections

Public Hearing

Tuesday, April 27, 2021

Written Testimony provided by Milwaukee County Clerk George L. Christenson

Chairwoman Brandtjen and Members of the Committee, thank you for the opportunity to submit this written testimony before your honorable body. My name is George Christenson. I am the Milwaukee County Clerk. In this capacity, I also serve as Executive Director of the Milwaukee County Election Commission, which is comprised of three Election Commissioners, and led by Elections Director Julietta Henry.

Like each of you, I swore an oath to support the Constitution of the United States, the Constitution of the State of Wisconsin, and to faithfully discharge the duties of my office, to the best of my ability. In accordance with that oath, I support all efforts to improve our democratic process, including efforts to improve the accuracy, security, transparency and accessibility of our voting processes. While I see some provisions of these bills as advancing our common goals, I'm concerned that other provisions may lead to unintended outcomes, and some could ultimately undermine the integrity of our elections.

While the Office of the County Clerk is a partisan office in the State of Wisconsin, I do not wear a partisan hat when it comes to elections administration. It is our sacred duty to remain non-partisan and carry out our charge as election officials before, during and after election day. Our job is to count the votes and whoever gets the most vote wins. If our personal choices for candidates win, we're happy – if they lose we complain. That's Democracy and that's America!

I welcome the opportunity to work bi-partisan fashion with this committee and legislative leaders to identify bonafide ways to improve upon our election processes. Thank you.

Assembly Bill 170 – Oppose

Mandating that observation areas shall not be more than 3 feet from tables doesn't make practical sense in many cases. There are many variables, including the square footage and configuration of the polling location, number of voters in line, number of poll workers at a table, etc. that factor into the municipal clerks' decisions on where to place observation areas. Municipal Clerks need some latitude. Further, this bill doesn't provide a minimum distance – does this mean that observers can request to sit right at the table? Does it mean it must be exactly 3 feet under all conditions? Finally, this doesn't provide the flexibility needed under extraordinary circumstances – such as a global pandemic. Therefore, it may force local clerks into having to choose whether to violate state law or federal law because they have no latitude. During the 2020 Presidential Election recount, observers were allowed to be 3 feet from the tables – and they still complained. The current law is reasonable but I would support changing it to "...not less than 3 feet from nor more than 6 feet from the table..." I have no issues with the provision which creates Section 2. 7.41 (4m) as written.

Assembly Bill 178 – Oppose

I am in opposition to this bill because, it creates additional undue burdens on municipal clerks and their staff, as well as on the voters. It requires the absentee ballot application to be separate and distinct from the certificate envelope in which voters are required to seal and submit absentee ballots. This is completely unnecessary and it attempts to fix something that is not broken. The 2020 Presidential Recount conducted in Milwaukee County proved the accuracy of the absentee voting system and identified no issues that this bill is supposedly trying to fix.

Additionally, the bill places an unnecessary burden on the voters because they are asked to do the same thing twice, which is to certify facts that they are eligible to vote in the election. When they fill out, sign and return their absentee ballot, the voters already certify they are eligible to vote in that election and there is no reason to make them do this as well when they are requesting an absentee ballot. Again, the 2020 Presidential Recount proved that there is no issue with the existing system and this bill is clear attempt to make it harder to vote via an absentee ballot.

Assembly Bill 179 – Oppose

This bill provides that “an employee of a qualified retirement home or residential care facility who influences an occupant of the home or facility to apply for or not apply for an absentee ballot or cast or refrain from casting a ballot or influences an occupant's decision for whom to cast a ballot is guilty of the Class I felony.” I am beyond appalled how alarming this provision is. It is extremely vague and possibly detrimental to those who wish to ensure that our most vulnerable citizens exercise their sacred right to vote. We must remember that caretakers in facilities play an impartial role in assisting their residents vote. I fear that many of them will not be as eager to continue to do so when they are potentially facing three and a half years in state prison, a fine up to \$10,000, or both on a technicality of a poorly through-out state election law.

As stated in my opening remarks, I do in earnest wish for a spirit of bi-partisanship as we work through these proposed election law changes. In that vein, I state that I do not object to the provision of this bill requiring that the administrator of a care facility provide notice to the relatives for each occupant who intends to vote by absentee ballot with special voting deputies of the dates and times when the deputies will be visiting the home or facility.

Assembly Bill 198 – Oppose

This legislation aims to correct a problem that does not exist, with the consequence of disenfranchising the voters of Wisconsin. The current law states that if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may, but is not required to, return the ballot to the voter whenever time permits so that the voter may correct the defect. This bill disregards this safeguard which ensures the voter has time to correct their certificate and vote in the election. The bi-partisan Wisconsin Elections Commission appropriately issued guidance stating that municipal clerks may correct these certificates if the missing information is obvious (such as a known street name that is spelled incorrectly) or they know that the voter in question is a registered voter living at the address stated, and otherwise fulfills all the requirements to vote in the election. If clerks across the state didn't perform this duty, valid, legitimate ballots could be thrown out due to so-called incomplete certificates, and eligible Wisconsin voters would be harmed when their vote is not counted for what many would consider a minor technicality. We have a responsibility to do our best to ensure all lawfully

cast ballots are counted. We should all thank the diligent clerks who once again stood at the front lines of democracy in the fall of 2020 and carried out this solemn responsibility.

Assembly Bill 201 – Oppose

This bill puts additional unnecessary strains on municipal clerks in Milwaukee County and across the state of Wisconsin in the form of burdensome and unrealistic procedures, overwhelming administrative costs and threats of committing a felony in the course of doing their jobs. It will also have a negative impact on voters – particularly our senior citizens, and those living with disabilities. By eliminating the ability for voters who are indefinitely confined due to age, illness, infirmity or disability to automatically receive a ballot for each election so long as they continue returning and voting in each election, this bill will cause confusion and disenfranchise our most vulnerable populations.

This bill creates another step in the process and shifts the burden onto municipal clerks to mail separate applications for a ballot to every indefinitely confined voter for each election. This is completely unnecessary, and a terrible waste of local resources and valuable taxpayer dollars. Building in an extra step – that is having the clerks mail absentee ballot application rather than the absentee ballot itself is nothing less than voter suppression.

Finally, the bill is also contradictory, vague and Draconian. For example, it states:

“6.86 (2) (a) An elector who is indefinitely confined because of age, physical illness, or infirmity or is disabled for an indefinite period may by signing a statement to that effect require that an absentee ballot application be sent to the elector automatically for every election.”

Then states:

“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) Whoever violates par. (a) is guilty of a Class I felony.”

Therefore, for example, if a municipal clerk from Chippewa Falls, Fox Point, Sheboygan Falls, etc, inadvertently sends an absentee ballot application to someone that is no longer on the indefinitely confined list, they are guilty of Class 1 felony. This is ridiculous!

Our great State lags behind many other states that successfully utilize voting by mail – which has proven to be an efficient and secure tool in exercising the right to vote and expanding democracy. We should be working towards improving this process and not trying to dismantle it.



Election Commission

Commissioners
Stephanie Findley, Chair
Carmen C. Cabrera
Jess Ripp

Executive Director
Claire Woodall-Vogg

City of Milwaukee Testimony on AB 178, AB 179 and AB 201

April 27, 2021

Assembly Committee on Campaigns and Elections

Thank you to Rep. Brandtjen and to the committee members for the opportunity to provide testimony on AB 178, relating to applications for absentee ballots; AB 179, relating to absentee voting in certain care facilities and retirement homes; and AB 201, which makes a number of changes to the laws relating to absentee ballots in Wisconsin.

The City of Milwaukee opposes AB 178 because it is creating a solution for which there is absolutely no problem. All voters, unless voting in-person absentee in the clerk's office, have always had to have a separate application from their absentee ballot certificate envelope. The legislature, following in the footsteps of failed lawsuits in Wisconsin, now wants to create additional paperwork for municipal clerks and voters during the in-person absentee process. This bill will create additional paperwork for municipal clerks and voters during the in-person absentee process which is unnecessary, inefficient, and duplicative.

AB 179 requires the administrator of a care facility to provide notice to the relatives for each occupant who intends to vote by absentee ballot with special voting deputies of the dates and times when the deputies will be visiting the home or facility. The City of Milwaukee cautions the legislature from unnecessarily impeding upon a voter's right to a private and independent vote, especially those living in assisted living whom often remain quite independent. We do think that the SVD process should be discussed with families at intake, including when and where notices are posted. AB 179 also makes it a felony for an employee who influences an occupant of the home or facility to apply for or not apply for an absentee ballot. Creating a provision that does not allow them to influence whether or not to **apply** for an absentee ballot is extremely vague and possibly detrimental to the Special Voting Deputy program. Municipal clerks across the state rely on the employees of the facilities that we visit to provide voter registration and absentee voting information at intake, as well as to review registered voter lists for accuracy. We rely on staff to contact residents who may have moved into a new residence or a different level of care within the facility in order to update their voting information, especially if they have moved from independent living to assisted or nursing care and now need to be enrolled in the Special Voting Deputy program. This bill is tone deaf to the integral, non-partisan but administrative role that care facility staff play in helping local election officials administer the Special Voting Deputy program.

The City of Milwaukee opposes AB 201 in its entirety due to the bill's alarming administrative costs, the burdensome and unrealistic procedures placed on local election officials, and the bill's impact on voters with disabilities and voters living in poverty, both categories of whom are disproportionately voters of color. At the forefront of this bill stands the incredible administrative costs placed on local municipalities. This bill eliminates the ability for voters who are indefinitely confined due to age, illness, infirmity or disability to automatically receive a ballot for each election so long as they continue returning and voting in each election. Instead, the burden is shifted onto clerks to begin automatically mailing separate applications for a ballot to every indefinitely confined voter for each



April 26, 2021

Dear Representative Brandtjen, Representative Sanfelippo, Representative Tusler, Representative Thiesfeldt, Representative Murphy, Representative Rozar, Representative Spreitzer, Representative Subeck, and Representative Emerson,

My name is Nancy Gapinski and I live in Glendale and am a constituent of Senator Darling and Representative Knodl. Thank you for the opportunity for me to share my concerns about and **opposition to AB 178, AB 179, and AB 201**. I worry that these bills will have unintended consequences for people with disabilities and older adults. I am concerned that the bills being discussed today, in addition to the other voting bills under consideration will collectively create insurmountable barriers to voting for many Wisconsin citizens.

I come to you with over 18 years of caregiving experience that informs my view of the challenges these bills present to people, who in many cases are already feeling overwhelmed. I was the primary caregiver for one or for a time, both of my elderly parents following health emergencies that resulted in them experiencing chronic conditions and having long-term care needs. I have a 14 year-old son with autism and I am also thinking ahead to what he will need to be an active citizen and voter.

One of the barriers I want to discuss is the requirement in **AB 201** that voters provide a photo ID with their absentee ballot request and eliminating the option for indefinitely confined voters to receive absentee ballots automatically. During my time caring for my folks, I have no idea how many hours I logged at hospitals, doctor's offices, therapy appointments and pharmacies. I do recall that in one 3-month period, I was with my mom for 33 appointments, often with small children in tow. I can also recall some long hours being logged at the DMV to obtain state IDs. I was in a position to assist them with obtaining IDs as I have a car, we live in a suburban area not too far from a DMV, and I had some flexibility in my schedule. There are many people in rural areas who live far from a DMV and lack transportation to get to one to obtain a photo ID that they could use to request an absentee ballot. For some in urban areas, getting to a DMV is also difficult.

I also worry about the provision in **AB 201** that clerks, the Election Commissioner, or other groups cannot mail absentee ballot requests to eligible voters. The ability for this to occur during a pandemic situation was especially helpful. I think that these reminders are very helpful for people with disabilities and encourage a robust democratic process. I worry that many voters will discover too late that they do not have what they need to obtain an absentee ballot and due to health reasons be unable to vote in-person.

I am concerned that **AB 179** would make it more difficult for people in nursing homes and group homes to vote.

- Some residents have communication and/or fine motor difficulties that make it difficult for them to communicate their thoughts to unfamiliar listeners. Some use

election. The cost is unnecessary and burdensome for us to print paper applications, mail them to thousands of voters, and then hire a large data entry staff to enter the returned applications upon receipt. This cost continues into every aspect of a local municipal clerk's office, including the cost to retain and alphabetize thousands of applications for every single election, provide secure storage of these additional materials, and future destruction of these materials.

This bill forbids clerks from mailing unsolicited absentee applications, suggesting that clerks should now somehow log every phone call and request for an absentee application. Would a voter be able to request more than one application? Would each family member need to speak to a staff member in order for us to mail three applications to the same address? For my office, this would require logging thousands of phone calls each and every year, which is not only burdensome but would require an investment in new technology and additional staff. As an election administrator, AB 201's attempt to stifle my office's education and outreach to voters is incredibly frustrating and insulting; election administrators already face a mountain of misinformation being shared online, through social networks, and outside partisan groups. To enact legislation that would literally forbid me from providing correct and accurate information if it included providing an absentee application is baffling.

The process and timelines for these proposed changes are not realistic for local election officials. There are 49 days between a Spring Primary and a Spring Election. We receive absentee ballots just 27 days after the Spring Primary. In the days and weeks following the Spring Primary, clerks are conducting canvasses, entering election participation, and carrying out other administrative tasks related to the Primary. Clerks would need to immediately mail out these "automatic applications" after conducting the Spring Primary in order to have enough time for the application to reach the voter, have the voter complete it and make a new copy of their photo identification, and then enough time for the application to be returned and processed. 27 days is a very tight timeline to complete this process even when hiring additional staff to conduct the mailing and processing of incoming requests when we take into consideration the average USPS mailing time is 4-5 days each way.

Finally, this bill ignores the disproportionate impact it will have on voters with disabilities and voters living in poverty. Voters who have certified that they are indefinitely confined have done so because it is a burden for them to physically get to the polls or wait in a line at a polling place. The burden placed upon these voters to furnish their photo identification with **every single absentee application** is either being completely ignored or the authors are assuming that every voter has easy access to a photocopier or the internet within their personal residence. This bill also now requires an electronic copy of the voter's original written signature with every absentee application. Again, a voter must now own a scanner or be expected to travel outside of the home prior to every election to sign and scan an electronic signature if they wish to apply for a ballot via email. This bill would create so many hoops for our most vulnerable voters to jump through that I am concerned they will throw up their hands and give up voting entirely which I'm afraid is the intent.

The City of Milwaukee urges you to oppose AB 178, AB 179, and AB 201. Thank you for your consideration.

For additional information and questions, please contact:

Brenda Wood, Intergovernmental Policy Manager, City of Milwaukee
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communication devices that staff assist them with setting up. In these situations, I think that even with a voting deputy present that a support person familiar with the resident's communication would be needed to assist to ensure the resident's preferences were clear. You may say that therefore a family member should be there but to be honest sometimes the people providing the daily care are more familiar with communication and helpful than family in these situations.

- I am also concerned about a resident's right to privacy and their autonomy. We live in a purple state and often a family's ability to get along is due to a compact not to discuss politics in general and elections specifically; this bill could create a lot of tension.
- At a time when nursing homes and group homes are stretched thin, it is a big burden to force them to alert all families to a voting deputy coming. Please don't legislate this. If a resident or a family has a desire to be supported in this way, they can just ask the administrator or check with their local clerk where the information about special deputies is already available. I also read that this could conflict with federal rules and the last thing we need is a lawsuit. I hate seeing taxpayer dollars go to lawsuits when it can be avoided.
- Please don't scare and threaten workers at long-term care facilities that they could go to jail when they are just trying to be helpful to residents who need to be reminded when an election is coming up or assisted with the process of requesting an absentee ballot.

I have other concerns about what is being required of voters seeking indefinitely confined status to vote absentee. I will be honest that there are so many different bills in regards to voting rights that it is confusing to know whether it is in one of the bills you are considering today. I think that asking voters to get to their doctors to sign off on statements regarding being indefinitely confined is too big of an ask and every two years is even more overwhelming. I remember a few years ago my mom had an appointment with her electro-cardiologist. We had just received the renewal card for her disabled parking placard, and I brought it along thinking, "Perfect timing. I can ask her doctor to fill this out and sign it. He knows her well." His nurse said, "no" and this response was not because they did not think my mom needed accessible parking. They knew better than most how her congestive heart failure impacted her life. He had surgically placed the pacemaker defibrillator and had just adjusted it. He saw me push her into the office in a wheelchair and heard her become winded just answering his questions and listened to her heart in constant a-fib. He just did not "feel comfortable" completing it or did not have time. Perhaps it was not billable time. I had to then help my mom follow up with her primary care physician who completed it. If a physician did not feel comfortable completing a short *renewal* form for accessible parking, how will physicians respond to signing off on documents establishing a patient as meeting the definition of "indefinitely confined?" What happens if a physician refuses to sign it? In my mom's situation, she had a strong support person with her who provided transportation and lived in close suburban proximity to the doctors. What about the people who live in rural areas and don't have transportation or the people who rely on shared rides or other public transportation? **How much running around to doctors is expected of a person seeking "indefinitely confined" status and is it reasonable to expect this?**

I am also concerned about **AB 198** regarding "Defects on Absentee Ballot Certificates." I worry that it prohibits a municipal clerk from correcting a defect on the completed absentee ballot certificate envelope. I think that sometimes a witness may forget to include their address on the envelope for the ballot. Right now the clerk may look up the address or contact the voter for information. I fear that if you make it illegal for a clerk to do that and require them to return the ballot to the voter and post a notification on the elector's voter information page on MyVote website, that votes will end up being missed as a result. Many voters don't have internet or device to access MyVote; they would be unaware of the problem, and not able to correct it. Mail is slow. There may not be time to return the ballot to the voter and for the voter to send it back to the clerk by the deadline. As a result, the vote would not be counted.

At a time in which we have a caregiver shortage and families are under stress, we should be looking at ways to make voting easier rather than harder. For these reasons, I urge you to reconsider these bills and protect the rights of Wisconsin voters. Thank you.

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Cc: Representative Dan Knodl

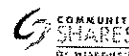
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April 27, 2021

To: Assembly Campaign on Campaigns and Elections

From: Statement for public hearing on AB 170, AB 178, AB 179, AB 198 and AB 201

The League of Women Voters of Wisconsin believes voting is a fundamental citizen right that must be guaranteed. Participating in our democracy by voting should be safe, accessible and a positive experience for all eligible Wisconsin residents. Lawmakers should avoid measures that place undue burden on the voter or erect barriers to voter participation. To that end, we have the following comments on the bills under consideration in the April 27, 2021 hearing of the Assembly Committee on Campaigns and Elections:

We oppose **AB 170**, which would make substantial changes to the current law regulating election observers. While we have no objection to most of the bill, we vigorously oppose the provision which would change the placement of the observers' station in a polling place or recount site from the current requirement that it be between three and eight feet away from the check-in and registration stations to a location "not more than three feet" away. This provision would allow observers to be too close. It fails to protect voters' private information, such as a driver license or passport number, and could cause voters and/or poll workers to feel intimidated by observers. The current minimum of three feet is close enough to facilitate all observer activity allowed under Wisconsin law, while protecting voter privacy. Our objection applies to **both** polling places and recount sites.

We oppose AB 178. Under this bill the WEC is required to prescribe the form and instructions of the absentee ballot application, which must be a separate and distinct form from the certificate envelope that voters must complete when they submit their absentee ballots. This is a burden, especially for voters with certain disabilities.

This bill does nothing but create more forms for the elector to complete and for clerks to review and audit. Much of the required information has already been provided by the voter in the registration process and is not necessary in the absentee voting process. Additionally, the bill stipulates that the application form must require the voter to certify facts establishing that he or she is eligible to vote -- something the voter must also do when registering to vote and when completing the certificate envelope.

All of this redundancy only creates a burden for voters and more red tape for clerks. Our elections have certainly not suffered from insufficient paperwork and red tape. This proposal offers nothing to improve election administration.

We oppose AB 179. This bill requires the administrator of a residential care facility or qualified retirement home to provide notice of the dates and times when special voting deputies (SVDs) will be visiting the home or facility to the relatives of each occupant who intends to cast an absentee ballot with the SVDs. The bill also provides that an employee of such a home or residential care facility who so much as encourages an occupant to apply for an absentee ballot or vote is guilty of a Class I felony.

This legislation is insulting to the occupants of such a home or facility. It assumes they cannot make independent decisions, and it could violate the privacy of their vote. Charging people with a felony for making a good faith effort to assist voters is extreme.

We oppose AB 198, which would require clerks to return to a voter an absentee ballot with an incomplete certificate and post a notification of the defect on the voter's information page in the voter registration database. While we could support legislation requiring clerks to inform voters of an incomplete certificate, this bill does nothing to assist voters to remedy the error or omission. It prohibits clerks from making common-sense corrections of a witness's address, something we have supported since 2016. It only gives reason to disqualify the ballots of eligible voters.

We oppose AB 201. Under this bill, indefinitely confined voters would have to apply for an absentee ballot for each and every election they wish to vote in, which is unnecessary and burdensome for voters. Adding to the burden, they would have to provide a picture of their photo ID with each request. The legislation stipulates that the WEC create a standard request form, including information that is already in the voter's record. Clerks would then have to confirm the completion of the form. Also, the bill treats military voters differently than overseas voters, and that would likely violate the MOVE Act and could trigger another lawsuit by the federal Department of Justice.

The bill also requires an electronic signature to be used for electronic voter registration. Establishing electronic signatures would require a costly change to the voter database. It would require new training for clerks and poll workers, and in the long run it would likely result in many rejected registrations and ballots from eligible citizens.

We urge you to reject all of these bills, which do nothing to improve elections and will only prevent qualified citizens from voting.

Testimony of Jay Heck, Executive Director, Common Cause Wisconsin

Wisconsin Assembly Committee on Campaigns and Elections

April 27, 2021

In Opposition to Assembly Bill 178, Assembly Bill 179,
Assembly Bill 198, Assembly Bill 201

Common Cause in Wisconsin (CC/WI) is one of the state's largest non-partisan political reform advocacy organizations with more than 8,000 members and activists residing in every county of the state. We have been active in Wisconsin since our founding in 1970.

We oppose four of the measures being considered by this Assembly Committee today and urge members of this committee to vote against their passage.

All four of these measures would make it more difficult and burdensome for Wisconsinites to be able to cast a ballot during an election. All are extremely partisan and were devised exclusively by members of one political party to gain partisan advantage in elections and without any consultation with members of other political parties or with nonpartisan election advocacy organizations such as Common Cause Wisconsin.

Specifically, we oppose:

Assembly Bill 178: This measure would require the Wisconsin Election Commission to create a standard absentee ballot application that must contain certain questions specified by the bill, and must be completed by all absentee voters, including in-person absentee (early) voters. The only people exempt from the new application would be those being served by special voting deputies at certain retirement or residential care homes. The standard application the bill would require all other absentee voters, whether requesting the ballot by mail or in person, to complete must include: the voter's municipality and county of residence; the voter's name, date of birth, and contact information, including as applicable their telephone number, fax number, and electronic mail address; the street address of the voter's legal voting residence; the election at which the voter intends to vote absentee; whether the voter is a military or overseas elector; the voter's confidential identification serial number if the elector has obtained a confidential registration; the lawful method by which the voter prefers to receive the absentee ballot; and whether the elector is hospitalized.

- o While making election administration processes standardized is generally a good idea, this one is not. It makes in-person absentee voters fill out an application for an absentee ballot even though they are present to vote by absentee ballot to verify that they want to indeed vote with an absentee ballot. It is burdensome work for the clerks and does nothing to improve elections. This measure is a response to some who unreasonably claim the envelope where in-person absentee voters place their ballots (and then seal and sign) cannot "double" as a request or application for a ballot. This current system is incredibly streamlined and secure.

Assembly Bill 179: This measure would limit voting rights of nursing home and group home residents. It may conflict with federal law which requires that nursing homes support the right of residents to vote. Under this measure, if staff offered to provide a resident with assistance, this would be a felony crime. This bill would require the administrator of the facility to notify relatives of the residents as to when the special voting deputies will be coming to the facility to assist in the casting of absentee ballots.

- o Most people in these homes and facilities make decisions for themselves every day of the week. They do not need a relative next to them when they are voting and fulfilling their duty in our democracy. They should not have their right to the privacy of their vote violated. This bill goes so far as to make it illegal for employees of a retirement home or residential care facility to even encourage a resident to vote.

Assembly Bill 198: This measure would require the clerk to mail the defective ballot envelope back to the voter, require the clerk to put a notice of the defect on the voter's voter information page in MyVote, and prohibit a municipal clerk from correcting a defect on the completed absentee ballot certificate envelope. Specifically, the bill would create new felonies in the list of election frauds to punish election officials.

- o This bill addresses how clerks should act when a voter returns a completed absentee ballot with a defect in the ballot certificate. If a certificate envelope has a defect, the clerk must return the ballot to the elector and post a notification of the defect on the elector's voter information page on MyVote website. However, not all voters can access MyVote and they would be unaware of the problem to make corrections. Additionally, the bill does not make clear if the voter will know the notice has been put in their voter information page on MyVote unless they happen to check the page. Existing law does not require notice of defects; however, the Wisconsin Election Commission guidance encourages clerks to contact the voter directly.
- o Mailing a ballot back to the voter within only a few days until Election Day will guarantee the ballot envelope is not returned corrected in time for the vote to be counted. The mail can be slow. There may not be time to return the ballot to the voter and for the voter to send it back, so the vote may not be counted.
- o Currently the clerk may look up the address or contact the voter for information. Existing law allows the clerk to mail the ballot back if there is time for the voter to correct the defect. This is a bad bill in that it will result in many ballots being tossed for information missing on the envelope. AND the bill does not allow for correction of the envelope except by the voter when the ballot and envelope is returned by mail. It does not seem to allow the clerk alternate ways for corrections, like a phone call and a visit to the clerk's office by the voter. While a correction or cure process for absentee ballot envelopes is something that the legislature should take up, it should not be in the form of this bill. It should give clear instructions so that clerks and voters are able to correct mistakes to ensure all ballots cast are counted.

Assembly Bill 201: This measure would no longer allow voters who are indefinitely confined or overseas to receive absentee ballots automatically. Instead, they would need to fill out an

absentee ballot request for every election and they would need to show a proscribed photo ID. In addition, this bill would prohibit the Wisconsin Elections Commission (as well as municipal or county clerk or local elections board) from sending absentee ballot applications *en masse*, as it did in 2020 to 2.7 million Wisconsin voters.

- o Forcing indefinitely confined voters to fill out an absentee ballot request for every election is extremely burdensome. Wisconsin has multiple elections every year. The mass mailing of absentee ballot applications gives the voters the choice about how and when they vote. Election administrators should have the authority and flexibility to make voting easier by being able to mail absentee ballot applications. -

In sum, Common Cause Wisconsin urges a vote in opposition to all four of these measures in the Committee and beyond. Thank you for your respectful consideration of our views.

ROCK COUNTY, WISCONSIN

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April 27, 2021

Testimony of Lisa Tollefson, Rock County Clerk

Assembly Committee on Campaigns and Elections – Public Hearing

Assembly Bill 178 - Relating to applications for absentee ballots

Assembly Bill 201 - 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 – OPPOSE

Some indefinitely confined electors are required to submit photo ID

In this bill, electors living in residential care facilities are not required to submit photo ID. Anyone else claiming indefinitely confined are required to submit photo ID. Not all indefinitely confined electors are able to go to the DMV to get an ID. This bill may disenfranchise those electors who are most vulnerable from being able to vote.

Prohibits sending of absentee applications by election officials

This bill prohibits an election official from sending or transmitting an absentee ballot application to an elector for voting unless the elector applies for the application. And if the election official sends an application without the elector applying for the application, it is a Class I felony.

Let's run through this again. Since a clerk would never want to be accused of a felony, the clerk will need to protect themselves by creating an additional form for the voter to request an absentee application. Not to request the ballot just to request the application. The voter will need to return the request to get the application. Then the clerk will send the absentee application. The elector returns the absentee applications. Then the clerk sends the absentee ballot. The voter returns the absentee ballot. This is waste of taxpayer dollars.

But don't worry this bill only creates a felony if an election official sends out unsolicited absentee applications. Third party groups can send out as many as they want. Since the clerk's address mailing address is printed on the third party mailings, clerks are often accused of sending the mailing.

Hourly posting of absentee ballots being canvassed

1,850 municipal clerks will be required at each election to post hourly the number absentee ballots mailed, returned, counted and remaining to be counted. My concerns are that not all municipalities have websites. Some of those who do have websites do not have direct access to post to their websites. They send the posting to their provider hoping it will post quickly.

The Wisconsin Elections Commission already posts the entire states absentee information on their website. To find this information click Statistics on the left side bar and scroll down to Absentee Ballot Report. This lists the number of absentee ballot requested, send, returned and the number that were voted in-person. An hourly posting may be easier for large municipalities which are processing absentee ballots into separate tabulators from where voters are entering their in-person Election Day ballots. Most municipalities will do an hourly check to make sure their counts are accurate. But if they only have one tabulator they may not have an exact number of how many are in-person and how many are absentee.

Separate absentee application and certificate envelope for in-person voting

There is no added value to having a separate absentee application and certificate envelope for in-person absentee voting. They both contain similar information. It is a waste of paper and can actually encourage absentee voting by mail. As a town clerk, I choose not to use a separate application and envelope for in-person voting. From previous experience, I saw voters complete the separate absentee application and because the option was on the sheet, they chose to have their absentees mailed to them in the future. This extra paper and postage is an additional cost paid by taxpayers. Having a separate application form for in-person absentee voting is basically window dressing for politicians. Again there is no added value, only mounds of extra paper.

Thank you for your consideration,
Lisa Tollefson



Election Commission

Commissioners
Stephanie Findley, Chair
Carmen C. Cabrera
Jess Ripp

Executive Director
Claire Woodall-Vogg

City of Milwaukee Testimony on AB 178, AB 179 and AB 201

April 27, 2021

Assembly Committee on Campaigns and Elections

Thank you to Rep. Brandtjen and to the committee members for the opportunity to provide testimony on AB 178, relating to applications for absentee ballots; AB 179, relating to absentee voting in certain care facilities and retirement homes; and AB 201, which makes a number of changes to the laws relating to absentee ballots in Wisconsin.

The City of Milwaukee opposes AB 178 because it is creating a solution for which there is absolutely no problem. All voters, unless voting in-person absentee in the clerk's office, have always had to have a separate application from their absentee ballot certificate envelope. The legislature, following in the footsteps of failed lawsuits in Wisconsin, now wants to create additional paperwork for municipal clerks and voters during the in-person absentee process. This bill will create additional paperwork for municipal clerks and voters during the in-person absentee process which is unnecessary, inefficient, and duplicative.

AB 179 requires the administrator of a care facility to provide notice to the relatives for each occupant who intends to vote by absentee ballot with special voting deputies of the dates and times when the deputies will be visiting the home or facility. The City of Milwaukee cautions the legislature from unnecessarily impeding upon a voter's right to a private and independent vote, especially those living in assisted living whom often remain quite independent. We do think that the SVD process should be discussed with families at intake, including when and where notices are posted. AB 179 also makes it a felony for an employee who influences an occupant of the home or facility to apply for or not apply for an absentee ballot. Creating a provision that does not allow them to influence whether or not to apply for an absentee ballot is extremely vague and possibly detrimental to the Special Voting Deputy program. Municipal clerks across the state rely on the employees of the facilities that we visit to provide voter registration and absentee voting information at intake, as well as to review registered voter lists for accuracy. We rely on staff to contact residents who may have moved into a new residence or a different level of care within the facility in order to update their voting information, especially if they have moved from independent living to assisted or nursing care and now need to be enrolled in the Special Voting Deputy program. This bill is tone deaf to the integral, non-partisan but administrative role that care facility staff play in helping local election officials administer the Special Voting Deputy program.

The City of Milwaukee opposes AB 201 in its entirety due to the bill's alarming administrative costs, the burdensome and unrealistic procedures placed on local election officials, and the bill's impact on voters with disabilities and voters living in poverty, both categories of whom are disproportionately voters of color. At the forefront of this bill stands the incredible administrative costs placed on local municipalities. This bill eliminates the ability for voters who are indefinitely confined due to age, illness, infirmity or disability to automatically receive a ballot for each election so long as they continue returning and voting in each election. Instead, the burden is shifted onto clerks to begin automatically mailing separate applications for a ballot to every indefinitely confined voter for each



election. The cost is unnecessary and burdensome for us to print paper applications, mail them to thousands of voters, and then hire a large data entry staff to enter the returned applications upon receipt. This cost continues into every aspect of a local municipal clerk's office, including the cost to retain and alphabetize thousands of applications for every single election, provide secure storage of these additional materials, and future destruction of these materials.

This bill forbids clerks from mailing unsolicited absentee applications, suggesting that clerks should now somehow log every phone call and request for an absentee application. Would a voter be able to request more than one application? Would each family member need to speak to a staff member in order for us to mail three applications to the same address? For my office, this would require logging thousands of phone calls each and every year, which is not only burdensome but would require an investment in new technology and additional staff. As an election administrator, AB 201's attempt to stifle my office's education and outreach to voters is incredibly frustrating and insulting; election administrators already face a mountain of misinformation being shared online, through social networks, and outside partisan groups. To enact legislation that would literally forbid me from providing correct and accurate information if it included providing an absentee application is baffling.

The process and timelines for these proposed changes are not realistic for local election officials. There are 49 days between a Spring Primary and a Spring Election. We receive absentee ballots just 27 days after the Spring Primary. In the days and weeks following the Spring Primary, clerks are conducting canvasses, entering election participation, and carrying out other administrative tasks related to the Primary. Clerks would need to immediately mail out these "automatic applications" after conducting the Spring Primary in order to have enough time for the application to reach the voter, have the voter complete it and make a new copy of their photo identification, and then enough time for the application to be returned and processed. 27 days is a very tight timeline to complete this process even when hiring additional staff to conduct the mailing and processing of incoming requests when we take into consideration the average USPS mailing time is 4-5 days each way.

Finally, this bill ignores the disproportionate impact it will have on voters with disabilities and voters living in poverty. Voters who have certified that they are indefinitely confined have done so because it is a burden for them to physically get to the polls or wait in a line at a polling place. The burden placed upon these voters to furnish their photo identification with **every single absentee application** is either being completely ignored or the authors are assuming that every voter has easy access to a photocopier or the internet within their personal residence. This bill also now requires an electronic copy of the voter's original written signature with every absentee application. Again, a voter must now own a scanner or be expected to travel outside of the home prior to every election to sign and scan an electronic signature if they wish to apply for a ballot via email. This bill would create so many hoops for our most vulnerable voters to jump through that I am concerned they will throw up their hands and give up voting entirely which I'm afraid is the intent.

The City of Milwaukee urges you to oppose AB 178, AB 179, and AB 201. Thank you for your consideration.

For additional information and questions, please contact:

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