



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on SB 204

April 15, 2021

Good morning Chair Bernier and fellow members of the Senate Committee on Elections, Election Process Reform, and Ethics. Last year we witnessed an astonishing uptick in absentee voting. According to the Wisconsin Elections Commission, 27.8% of votes cast in the November 2016 election were absentee ballots. In November of last year, 59.7% of votes cast were absentee ballots. This increase in absentee voting, driven primarily by COVID-19, highlighted some discrepancies in our current absentee ballot process. It also highlighted a couple of opportunities to codify best-practices that increase transparency and provide uniformity to absentee voting.

Under current law, some voters automatically receive absentee ballots in the mail, and others must request them every time they wish to vote. Under current law, some absentee voters are required to complete a request form, and other voters are told an absentee ballot witness certificate is sufficient. Some voters are required to show a photo ID when they cast an absentee ballot, and others are not. SB 204 contains provisions to standardize the treatment of these topics in statute and ensure that the absentee ballot process is uniform and consistent for all voters.

One thing that I believe works well is the current absentee ballot request form, or EL-121. This document clearly and succinctly outlines the information that a municipal clerk needs to issue an absentee ballot. However, there is no specific statutory requirement that all municipalities in the state use this form. While I strongly suspect that most – if not all – municipalities use this form, it is my hope that codifying the elements of this document in statute solidifies its employment as a uniform publication for Wisconsin elections.

This portion of the bill also clarifies that an absentee ballot application is not the same thing as the witness certificate that accompanies a completed absentee ballot. There is a case to be made that Wisconsin Statutes 6.86(1) requires electors to submit an application prior to receiving an absentee ballot.¹ However, since 2016 when the Elections Commission issued guidance saying an application and a certificate may be the same thing, there has been robust debate about this issue. SB 204 provides much-needed legislative clarification of this point.

Related to this is the bill's requirement that a request for absentee ballot contain the voter's written signature or, if submitted online, an electronic signature verifying that it is the voter – and not someone else – requesting the ballot.

¹ <https://docs.legis.wisconsin.gov/statutes/statutes/6/iv/86>

After input from one of my clerks, we inserted into the bill a requirement that online requests for absentee ballots and online voter registrations be retained in a PDF document for easy review of local clerks. Currently, the information from the online form is retained in WisVote, but local clerks who maintain their own file of absentee requests and voter registrations may prefer to retain a copy of the actual form, not just the data log in software.

SB 204 also standardizes how absentee ballots are distributed. Military and overseas voters may continue to receive ballots automatically mailed to them, but Wisconsin voters in the U.S. are required to apply for each absentee ballot they wish to receive and enclose a copy of their voter ID document. We know voter ID is both a popular and effective mechanism for ensuring election integrity. A Rasmussen poll released March 17, 2021 found that 75% of likely voters in the U.S. support voter ID laws.² Ensuring that every absentee ballot cast in Wisconsin follows a process that mirrors what voters experience during in-person voting at the polls on Election Day is vital to restoring public confidence in our elections.

When Wisconsin voters cast a ballot at the polls they show their ID, sign a poll book, and receive their ballot which they then slide into a tabulating machine when they have made their choices. It is a simple but effective process. There are no questions about different rules applying for different people. The same should be true of how we cast absentee ballots. There should be an application for each ballot, a voter ID check, a ballot and a witness certificate for each ballot returned either by mail or cast in-person at a clerk's office.

It matters that we get this process right. In my own district, an election fraud case is being prosecuted because a voter attempted to cast an absentee ballot on behalf of her deceased partner.³ In Sawyer County a Florida man has been charged for requesting a Wisconsin absentee ballot last year.⁴ He initially told the local clerk that he did not need to comply with the voter ID law.

SB 204 also evens the playing field when it comes to governmental units mailing absentee ballot applications to voters. While private entities are free to mail such applications to anyone of their choosing, the bill prohibits the state or any subdivision of the state from mailing out absentee ballot applications. Municipalities of varying sizes have widely varying budgets and it would be unfair to advantage some voters over others if only some, but not all, municipalities mass mail absentee ballot applications.

Finally, this bill requires municipal clerks to hourly post, once they have begun canvassing absentee ballots, the number of voted absentee ballots received, the number of absentee ballots counted, and the number of outstanding ballots remaining to be counted. This is similar to the

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https://www.rasmussenreports.com/public_content/lifestyle/general_lifestyle/march_2021/75_support_voter_id_laws

³ <https://www.tmj4.com/news/election-2020/cedarburg-woman-charged-with-election-fraud-accused-of-submitting-dead-partners-ballot>

⁴ https://www.apg-wi.com/sawyer_county_record/man-charged-with-election-fraud-in-sawyer-county-record/article_198ff7f8-7d2e-11eb-a4d1-3fc2bf35d223.html?fbclid=IwAR2fEiAscXIURub8AMgT8MBCz1tzVWc9FBbLgTkkoTbHNnnjIXaOiita1DM

statutory requirement that exists for hourly posting election night returns. Without this requirement in place, it is possible that a canvass of absentee ballots could wait until the end of the canvass to report the progress of the county. It is important to note that this provision does not require the vote tallies from absentee ballots to be posted hourly, merely the progress made on the counting of those ballots.

I'm happy to answer any questions you have and thank you for letting me testify today.



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

Testimony on Senate Bill 204

Senate Committee on Elections, Election Process Reform and Ethics | April 15,
2021 | Room 411 South

Thank you Chairman Bernier and members of the Senate Committee on Elections, Election Process Reform and Ethics for holding a hearing on Senate Bill 204. Sen. Duey Stroebel and I authored SB 204 to restore the integrity of our election system. The bill makes a series of changes to applying for, mailing, and canvassing absentee ballots. It also closes voter ID loopholes and provides clarification to online voter registration.

This bill will require the Wisconsin Elections Commission to create uniformity when it comes to absentee ballot request forms. A voter who applies for an absentee ballot will be required to prove they are eligible to vote in an election and include their name, date of birth, contact information, the street address of the voter's legal residence, and whether or not the voter is hospitalized.

Current law allows indefinitely confined voters, overseas voters, military voters, and any other voter who has once applied for an absentee ballot to receive to absentee ballots in all future elections. This bill eliminates that provision with an exception for military and overseas voters. Indefinitely confined voters can still request to automatically receive absentee ballot applications.

SB 204 also strengthens voter ID requirements by no longer exempting voters who received an absentee ballot by mail in a previous election, overseas voters, and certain indefinitely confined voters. The bill does keep in place exemptions that are necessary, such as active duty military voters and victims of domestic abuse who have obtained a confidential listing.



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

This bill firmly secures our elections by putting place a Class I felony for any election official who sends an absentee ballot or absentee ballot application to a voter without receiving approval from that voter to do so. The bill also requires that clerks post the number of absentee ballots mailed, returned, counted, and remaining to be counted during the canvass every hour.

Lastly, SB 204 requires the Wisconsin Elections Commission to keep a version of a voter's completed voter application if the voter submitted the application electronically. The application must be in PDF format and be made available to the clerk or board of election commissioners of the municipality where that voter lives.

Last year, a Gallup poll revealed that many Americans are losing faith in our election system. It found out 59% of Americans are not confident in the honesty of U.S. elections. It is imperative that we restore confidence in our election system. SB 204 is a wide-ranging election reform bill that will do just that.

Thank you for your time and consideration.



Election Commission

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City of Milwaukee Testimony on SB 204, SB 205 and SB 211

April 15, 2021

Senate Committee on Elections, Election Process Reform and Ethics

Thank you to Senator Bernier and to the committee members for the opportunity to provide testimony on SB 204, which makes a number of changes to the laws relating to absentee ballots in Wisconsin; SB 205, relating to absentee voting in certain care facilities and retirement homes; and SB 211, relating to applications for absentee ballots.

The City of Milwaukee opposes SB 204 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, SB 204'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.

SB 205 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. SB 205 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 SB 211 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.

The City of Milwaukee urges you to oppose SB 204, SB 205, and SB 211. Thank you for your time today and I am happy to answer any questions.

For additional information and questions, please contact:

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**Wisconsin
Conservation
Voters**

**Testimony on SB 204, SB 205, & SB 211
Anjali Bhasin, Civic Engagement Director
April 15, 2021**

Good morning. Thank you Chairwoman Bernier and members of the committee for allowing me to testify today. My name is Anjali Bhasin. I am the Civic Engagement Director for Wisconsin Conservation Voters. We have offices in Madison, Milwaukee, Eau Claire, and Green Bay, where we work with our network of over 40,000 members and supporters to engage voters to protect our environment and democracy. We work in close partnership with many democracy groups around the state.

As an American, few things are more important than the right to vote and ensuring all people, regardless of their race, gender, or zip code, have the opportunity to vote. It is fundamental that Wisconsinites should have the opportunity to make their voices heard and to participate in elections.

Unfortunately, SB 204, SB 205, SB 211, and SB 214 create barriers to voting and most impact vulnerable members of our society. We urge members of the committee to oppose this legislation.

SB 204

SB 204 creates roadblocks for voters with disabilities, voters who do not have access to technology, and the elderly. This year, our organization spent countless hours helping individual voters request absentee ballots. The process of requesting an absentee ballot takes several steps and includes uploading a photo ID. In our conversations, we often talked to voters who had to upload their identification. In particular, I remember talking with one individual who believed he had put in a request and was waiting for his ballot to arrive, only to discover that no such request existed in MyVote. The individual was uncertain why his request had not gone through and it highlighted the challenges for voters requesting absentee ballots. We are concerned that requiring individuals to place an absentee ballot request and upload photo ID for every election will disproportionately impact voters who lack broadband and access to required technology. We are also deeply concerned about the impact that this bill would have on individuals with disabilities or limited mobility. Voting is a fundamental right and we believe voting should be made more accessible as opposed to creating additional barriers. We urge you to oppose SB 204.

SB 205

SB 205 infringes on a voter's right to privacy and the precedent it would set by limiting workers from encouraging individuals to vote. Voting is a fundamental American right and we should all embrace and encourage it as such. We believe that employees at residential and nursing care facilities should be able to encourage others to vote. Additionally, we believe that individuals in nursing and residential facilities deserve the right to privacy when voting. Individuals in nursing care and residential care facilities make their own decisions every day and should be able to vote without their children being notified. We urge you to oppose SB 205.

SB 211

We are opposed to SB 211. For decades, voters have been able to write clerks offices requesting an absentee ballot. If a specific form is required, clerks have to follow up with each request to ask that the specific form be used. This creates an unnecessary burden for clerks. Additionally, the majority of voters not using MyVote are senior citizens. Changing the process could be confusing and disenfranchise these individuals.

We urge members of the committee to oppose the bills before you today as they create unnecessary barriers to voting in Wisconsin. Thank you.

For more information, contact Anjali Bhasin at anjali@conservationvoices.org or 608-469-4179.

To: Senator Bernier, Chair, and members of the Senate Committee on Elections, Election Process Reform, and Ethics
From: Barbara Beckert, Director of External Advocacy and Milwaukee Office Director
Date: April 15, 2021
Re: Testimony regarding SB 204/ AB 201 and SB 205/ AB 179

Chair Bernier and members of the Committee, thank you for the opportunity to share these comments with you. Disability Rights Wisconsin (DRW) is the designated Protection and Advocacy system for Wisconsinites with disabilities. DRW is charged with protecting and enforcing the legal rights of individuals with disabilities, investigating systemic abuse and neglect, and ensuring access to supports and services.

DRW provides education, training, and assistance to individuals with disabilities to promote their full participation in the electoral process, including registering to vote, casting a vote, and accessing polling places. DRW, in partnership with BPDD, coordinates the Wisconsin Disability Vote Coalition. The Coalition is a non-partisan effort and includes many community agencies and partners. It is a non-partisan effort to help ensure full participation in the entire electoral process of voters with disabilities, including registering to vote, casting a vote, and accessing polling places. In addition, DRW staffs a Voter Hotline. In 2020, we provided assistance to hundreds of voters.

Why Wisconsin's Indefinitely Confined Voter Provision Is Essential

DRW opposes SB 204/ AB 201 because we are concerned it will make it harder to vote for many voters with disabilities and older adults and may disenfranchise voters. This proposal:

- Eliminates the option for indefinitely confined voters to receive absentee ballots automatically for every election.
- Would require all indefinitely confined voters to provide a photo ID with their absentee ballot request.

Wisconsin's indefinitely confined statute has been on the books for decades, and provides an important safeguard to ensure many disabled, elderly and chronically ill voters can cast a ballot. This provision is important to many **individuals for whom, due to his or her own age, illness, or disability, either permanent or intermittent, leaving their residence imposes a burden.** An indefinitely confined voter can reside in their own home, apartment, nursing home, or other care facility. An indefinitely confined voter does not need to provide a copy of photo ID. Instead, the witness' signature on the Absentee Ballot Certificate Envelope satisfies the photo ID requirement. The voter registration process also requires the voter to prove their identity with proof of residency.

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In our work assisting voters with disabilities and caregivers, we have seen the importance of the indefinitely confined provision. It is understandable that usage increased this year. Many individuals did not feel safe voting in person, and many isolated at home, because of their high vulnerability to COVID 19. This provision is very important to many voters with disabilities, older adults, and voters with physical illness who live in the community as well as in care facilities, who have difficulty voting at their polling place. Wisconsin's Indefinitely Confined provision allows these voters to automatically have an absentee ballot sent to them for every election.

Many indefinitely confined voters have significant disabilities and/or disabling medical conditions, but live in the community. For example, over 75,000 Wisconsinites are enrolled in Family care, Partnership and IRIS and all are at a nursing home level of care, with most living in the community. It's not surprising that many designate as indefinitely confined voters.

The voters we assisted rely on the indefinitely confined provision, not because they do not want to provide a photo ID, but because of their disability, illness, or age. In some cases, these voters have a photo ID: the [WEC November 2020 Election Data Report](#) indicates that 80% of all indefinitely confined voters had a photo ID on file or had shown their ID sometimes in the past four years when they voted in person. Voters may be unable to upload a photo ID because of limited access to technology or limited ability. In addition, the MyVote system does not currently provide the option for an Indefinitely Confined Voter to upload photo ID. We recommend this feature be added as an option – not as a requirement.

Obtaining a copy of a photo ID can also be very difficult for many voters with disabilities; a high percentage are non-drivers with limited access to transportation. Many have difficulty leaving their home due to health status. On Election Day this month, the DRW Hotline received a call regarding a man in his 50s who is enrolled in Family Care. He wanted to vote but has been without a photo ID for three years. He had asked his Family Care team numerous times to provide assistance – he needed transportation to DMV and someone to go in with him to help him complete the paperwork. It is very disturbing that individuals have such a difficult time obtaining a photo ID for voting and are disenfranchised. In addition, this voter's experience points out the lack of awareness of the Indefinitely Confined voter provision. This gentleman could have voted absentee as an Indefinitely Confined voter. See the appendix of this testimony for other examples related to photo ID.

Because of these significant barriers, Wisconsin's Indefinitely Confined provision allows these voters the option to satisfy the photo ID requirement through the witness' signature on their absentee ballot certificate envelope. The requirement to

show proof of residency when registering is an additional safeguard for the voter to prove who they are.

When the legislature passed Photo ID Law in 2011, they recognized this need and exempted permanent absentee voters from having to provide a copy of their photo ID. The Indefinitely Confined option is vital to preserving this constitutional right for many Wisconsinites who are disabled, elderly, or ill. These provisions ensure that these voters are not excluded and discriminated against and can participate in the electoral process. We received many calls from older adults and people with disabilities requesting assistance with requesting an absentee ballot and this provision was very important to them.

Based on our work assisting voters, we believe it would be helpful to update and clarify the statutes regarding Indefinitely Confined Voter. We have found that voters are often confused by this designation. While there may be voters who are using it inappropriately, there are also voters who need to utilize this status and are not aware of it and have not been able to vote. We would like to work with you to update the statute, and also work with election officials to educate the public and provide a better understanding of the Indefinitely Confined provision and who should be utilizing it.

I want to thank Senator Bernier for her sensitivity to the importance of this provision to voters with disabilities and appreciate the good discussion about the alternative language we have developed in response to her interest. We would welcome the chance to share it with other.

SB 204 would also prohibit the WI Election Commission, clerks, and other groups from sending absentee ballot applications to all eligible voters; the bill makes it a felony to mail absentee ballot applications to anyone who has not requested one.

We ask you to oppose this proposal. We heard from hundreds of voters how helpful it was for them to receive an absentee ballot application. Many of the voters we assist do not have access to the internet and/or to a smart phone or computer, so they cannot request an absentee ballot on My Vote. Many have limited options to get out and do not have ready access to an absentee ballot application. The mailings from the WEC and from clerks provided them with equitable access to make a choice as to whether or not they wanted to vote absentee.

Based on these concerns, we ask you to oppose SB 204/ AB 201.

Voting Rights for Voters in Care Facilities

DRW is also concerned about the harmful impact of SB 205/ AB 179 on voters with disabilities and older adults.

A significant number of indefinitely confined voters live in congregate care facilities. These include nursing homes, group homes, adult family homes, and other assisted

living facilities. Residents include younger people with disabilities, as well as older adults.

SB 205 would limit the voting rights of nursing home and group home residents. If staff offered to provide a resident with assistance, this would be a felony: "*No employee of a qualified retirement home ... may influence 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.*"

SB 205 may conflict with federal law which requires nursing homes to support and affirm the right of residents to vote.

CMS Memorandum on Compliance with Residents' Rights Requirement related to Nursing Home Residents' Right to Vote, Center for Medicare and Medicaid Services, October 5th 2020: <https://www.cms.gov/files/document/qso-21-02-nh.pdf>

While the Special Voting Deputy Program is a good one, it has a number of gaps:

- Many, but not all care facilities, are eligible to have Special Voting Deputies dispatched by the clerk conduct in person absentee voting.
- SVDs make only two visits and may miss many residents.
- SVDs cannot register residents to vote after the deadline for voter registration outside of the clerk's office – and one or both of their visits may not occur until after the deadline has passed.
- SVDs only visit a facility if at least 5 residents are registered to vote and at least one absentee ballot request is on file – but there is no safeguard in place to ensure residents are provided with the option to register to vote or to request an absentee ballot. This is a chicken and egg situation.
- The current statute indicates that the second SVD visit can take place as late as the Monday before the election, and clerks cannot mail out absentee ballots until that second visit occurs. This has the potential to disenfranchise some care facility voters.

In addition, there is no process in place to ensure that clerks have the most current information about all eligible care facilities and that these facilities are notified. The *Wisconsin Election Commission November 3rd Data Report* indicates that in November 2020, 22,303 active registered voters who previously were served by SVDs requested a by-mail absentee ballot. This compared with November 2016, when the special Voting Deputy population size was 21,701.

As of February 9th, 2021, these are the number of potentially eligible care facilities and beds in Wisconsin. Although not all residents may be eligible to vote, the presence of over 87,000 beds suggests that Wisconsin can and must do more to support the right of care facility residents to vote.

Facility Type	Facilities	Beds
Nursing Home	360	28,057
CBRF	1,655	34,375
AFH	2,137	8,254
RCAC	349	16,598

SVDs should be an option for supporting residents with voting, but not the only option. Limiting voting to assistance from SVDs would leave behind some residents of care facilities – we don't know how many, but believe the number is significant. Even if SVDs visit a facility, they will not see all eligible residents.

It is important that care facility staff can proactively let residents know that an election is coming up and see if they want to register to vote or request an absentee ballot.

Residents should know that an election is coming up, and that they have the option of requesting assistance from staff. If requested by the voter, staff can assist them in filling out a mail in ballot or accompany them to the polling place. A voter is allowed to have someone assist them with completing their ballot, but the ballot must be completed as directed by the voter, and the assistor must be recorded. It would be illegal for a staff person, a family member, guardian or anyone else to complete a ballot not as directed by the voter. In addition, staff cannot answer questions about the candidates, questions about any political platforms, and must keep votes confidential.

Care facility staff who assist voters should have the opportunity to participate in training on voter rights, voting regulations and timelines, and the specifics of the process for providing assistance and for witnessing a ballot.

Wisconsinites should not lose their right to vote privately and independently because they live in a group home or nursing home.

For these reasons, we ask you to oppose SB 205/ AB 179.

Thank you for your consideration of our comments and please contact us with any questions. We welcome the opportunity to work with you to improve the accessibility of our elections, and ensure that the voters with disabilities and older adults have the opportunity to fully exercise their right to vote and fulfill their civic duty.

Examples of Indefinitely Confined Voters

Wisconsin's Indefinitely Confined provision allows voters to self-certify that they are "*indefinitely confined because of age, illness, infirmity, or disability and request absentee ballots be sent to me automatically until I am no longer confined or I fail to return a ballot.*" These are some examples of disabled Wisconsin voters who rely on the Indefinitely Confined provision to exercise their right to vote.

39 year old on Dialysis

D. has been voting as an IC absentee voter since 2016. When D. went online to get her absentee ballot in 2016, she was in the hospital. She knew that she would need to always ask for one. She saw online that Indefinitely Confined was an option (which she didn't know about prior to this) and realized this was an appropriate option for her. D. is a patient on dialysis. Because of her struggles with dialysis, she's begun having lots of other health issues, including skin lesions, mobility difficulties, and stroke. Dee uses a walker most of the time. She estimates that she is ambulatory with her walker about 80% of the time. D. says that even leaving the house is difficult to do. In public places, people will unintentionally bump or crowd her. This makes her very nervous and anxious about even going places.

28 year old with multiple disabilities

J. lives with his parents and family. His parents serve as his guardian. J. needs support with reading and completing his ballot. With all of the commotion at the polling place, this is more easily done at home for him. There is less stress and confusion if he is able to vote at home. Although polling places are required to be ADA compliant, physical accessibility can be difficult for J. as well, so voting at home alleviates these problems. When J. went to court for his guardianship hearing, it was very important to him and to his family that he retain his right to vote. The GAL was initially not very supportive of this, but his parents worked with the GAL to help her understand that J. understood and could participate in the voting process. When J. turned 18, he went with his parents to the Municipal Clerk's office to register. Upon registering, they requested Indefinitely Confined voter status right away. J. has always been an indefinitely confined voter.

60 year old Voter with MS

I am a 60-year old person who has been living with relapsing-remitting multiple sclerosis, a progressive, central nervous system disease, since 2004. My physical balance and walking has declined to the point that I have needed to use assistive devices, including wheelchairs sometimes, for the past few years. Although I am able to live independently, I have to use adaptive modifications and hired assistance to be able to have many household needs and activities taken care of. I became indefinitely confined in the spring of 2020, realizing that my health condition places me in the high-risk group for covid-19. Being able to vote from home not only removed the burden of wondering about, and trying to figure out how I would navigate the mobility issues and possible barriers involved with delivering my ballot to the ballot box, it also removed the risk that I would have endured by potentially exposing myself to covid-19. To be able to vote this way is priceless—without this means, many of us would not be able to have our voices--through our votes-- count.

Voter with MS, in her 60's

K is a mother, wife, and taxpayer. She loved her job but had to stop working over 20 years ago as she was increasingly disabled by MS. She lives at home but is at a nursing home level of care and enrolled in Wisconsin's IRIS program which provides long term care supports in the community. She spends her days in bed and needs assistance with all activities of daily living. Leaving her home to go to an essential medical appointment requires extensive planning and coordination, because of her level of disability, and frailty, and accessibility needs. Leaving her home to visit with family and friends is for the most part an unattainable dream.

She has voted as an indefinitely confined voter for ten years and takes pride in being a good citizen and regular voter. Because of her disability, her physical ability to write is very limited. She is not able to complete forms by herself either by hand or on the computer. The proposed requirements for her as an indefinitely confined voters to go somewhere to take an oath, and to see her doctor to have him verify her status would be major barriers. Having to resubmit the request every year and repeatedly provide a copy of photo ID would also be extremely difficult.

Photo ID

These are examples of calls we received regarding photo ID questions and barriers.

- Group home operator called to request guidance on how to support her residents to vote. None of them have photo IDs. She had never heard of Special Voting Deputies. We explained about how to obtain photo ID. Since the election was only a week away, and COVID restricted travel, she decided not to take action. Waukesha County
- "My brother lived in Monroe County. He wanted to vote but did not have a photo ID. He was wheelchair bound and needed a medical van or cab. I asked his social worker to get him to DMV. She never would help get his ID. He had MS and couldn't be he the heat or cold. His last year of his life he was bedridden and still wanted to vote..... but could not vote because he didn't have a photo ID." Monroe County
- Caller wants to vote but does not have a current photo ID. He wanted a ride to get to the DMV but needs an accessible vehicle because he used a powerchair. I told him about the new south side DMV location. He was very excited because he could get there himself using his powerchair and wouldn't have to try to get transportation which can be difficult to schedule. Madison
- My son who is 18 with autism would like to vote. He does not have a WI ID. Can he still vote?
- Older adult did not have current photo ID. She cast a provisional ballot. She needed transportation and someone to assist her to go to DMV to get a photo ID and then to the municipal clerks office to show her ID, and cure her provisional ballot. She had a mobility disability and needed someone to assist her with going into the DMV and clerk's office. Milwaukee
- The caller wants to register to vote but their state ID has their old address. The Hotline voter could register if they had proof of residency (such as utility bill) for the new address. The state ID could be used for proof of identity for voting, even if it does not have current address. Stevens Point

- Voter is worried that her ID does not have a star and that she will not be able to vote.
- Staff from long term care facility in Chippewa Falls. Resident wants to vote and does not have photo ID. Wanted to understand the options.
- Staff from nursing home wanted guidance. Most of our residents do not have photo ID and they want to vote. What do we do? Niagara
- Caller reported that her brother has been without photo ID for over three years. He is enrolled in Family Care and has repeatedly asked Family Care to have someone help him get one. He has no transportation and also needs help completing the forms at DMV. Milwaukee County

Testimony for Senate Committee on Elections April 15th Public Hearing From Patrice Day Fox Point Wisconsin.

I am a 58 year old female and reside in Fox Point, WI. I am writing to ask you to oppose Senate Bill 204/ Assembly Bill 201 which would eliminate Wisconsin's "Indefinitely Confined" voter status. As a voter with a disabling health condition, it is very important to me to be a permanent absentee voter which is why I vote as an Indefinitely Confined Voter.

I became suddenly disabled in 2014 after developing post viral autoimmune diseases. One of these, dysautonomia, causes extreme fluctuations in blood pressure and heart rate, among many other symptoms. Stress is a major contributing factor causing flares and it is for this reason that I cannot appear before you today, even virtually.

As there is no cure for dysautonomia, my condition is chronic. There is increasing research indicating that some "long Covid" sufferers have developed dysautonomia, so there will likely be thousands more people like me in the future in Wisconsin.

Like others with autoimmune disease I am immunocompromised. Because of this I have been housebound since 2014, only leaving the house for medical and physical therapy appointments. Among the reasons for this is that I am physically unable to stand for greater than a few minutes at a time without symptoms, including the extreme blood pressure issues mentioned earlier. Minor activity causes severe fatigue that lasts for days. Any acquired infection, viral or otherwise will exacerbate my symptoms. Prior to this I was a normal, healthy person who worked full time, socialized, and traveled internationally. My illness developed quite literally overnight.

I have voted in every election since I turned 18 years old and feel very strongly that it is every citizen's right and responsibility to do so. The emphasis is on responsibility as well as a right. On the advice of my physician, a year after I became ill, I applied for indefinite confinement so that I could continue to vote. I have received an absentee ballot automatically ever since. This is invaluable to me and stopping this would add another burden to my already challenging life by forcing me to expend my limited energy in the proposed process. Those of us who are disabled are marginalized in virtually every aspect of life; we should not lose our right as citizens of this state and country to have our say in OUR government because fate dealt us a different, difficult hand.

For people with significant health issues or due to age, providing a photo ID, just physically getting to the Division of Motor Vehicles to obtain one, can be impossible and therefore jeopardizes their ability to participate in our democracy. This is without the threat to their lives of catching Covid or other contagious illnesses by being in public. Requiring people with disabilities and the aged to upload a photo ID to a website can also be an insurmountable challenge. Not only because of the cost of the computer, scanner and internet connection but also because they may not physically be capable of getting to a location to complete the process if they lack these necessary items.

I strongly object to any attempt to disenfranchise any person who chooses to use the legal option of declaring indefinite confinement. This option was created for a reason, for people like me. Just because we have physical disabilities or are aged does not mean that we have difficulty using our minds and that our **rights** as citizens to vote can be discounted.

As Abraham Lincoln stated in the Gettysburg Address ours is "a government of the people, by the people, for the people", not just the able bodied but **all** of the people. Please do not disenfranchise my vote and those of thousands of others like me.

Due to the the harmful impact on my voting rights, and on many other voters with a disability, I ask you to oppose SB 204/AB 201.

I sincerely thank you for your time.



April 14, 2021

To: The Senate Committee on Elections, Election Process Reform and Ethics
Re: SB 204, SB 205, SB 214

Wisconsin Faith Voices for Justice is a state-wide interfaith education and advocacy organization. Together with the Wisconsin Council of Churches, we lead the Wisconsin Interfaith Voter Engagement Campaign. As people of faith, we are deeply committed to upholding our democracy and safeguarding every citizen's sacred right to vote.

I write today in strong opposition to SB 204, SB 205, and SB 214.

These bills would seriously disenfranchise voters, particularly the elderly and disabled. SB 204 places unnecessary burdens on disabled and indefinitely confined voters' ability to obtain an absentee ballot. Under current law, someone who is indefinitely confined can apply once for an absentee ballot and be sent absentee ballots for all future elections until and unless they indicate they are no longer confined. They do not have to provide an ID, just a witness statement.

This bill would require these voters to reapply for an absentee ballot for each and every election, producing a valid ID every time. For voters who are elderly or disabled, who often struggle with technology and may not have ready access to a government issued ID, this presents an often-insurmountable barrier to voting. This bill further prohibits the Wisconsin Election Commission from sending out absentee ballots to all registered voters, whether or not it was requested. WEC used this strategy for the November election, with great success. Wisconsin had its highest voter turnout ever. There is no reason why this practice should not continue.

SB 205 would actually make it a felony for a nursing home employee to do their job. Under federal law, nursing home employees are required to assist and affirm residents' right to vote (<https://www.cms.gov/files/document/qso-21-02-nh.pdf>). This bill would make it a felony for an employee to comply with this federal regulation. There is absolutely no reason for this bill, other than simply to make it more difficult for people to exercise their right to vote.

22 Chautauqua Trail, Madison, WI 53719 Phone: 608-513-7121 Email: wifaithvoices4justice@gmail.com

The mission of Wisconsin Faith Voices for Justice is to draw on the wisdom, courage, and strength of our various faith traditions to advance the common good. As progressive people of faith committed to crossing religious boundaries, we uphold the dignity of all human beings. Through advocacy, education, and partnership, we lift the voices of those who are underserved.

The bill further requires nursing homes to inform residents' families when special voting deputies come to the facility to assist residents in voting. This is the height of paternalism. Residents of nursing homes are not, by definition, mentally incapacitated. They run their own affairs and make their own decisions every day. There is no reason for this requirement, and it opens the doors for family members to interfere with their relative's right to make their own choices in how they vote.

SB 214 would allow municipalities to combine polling places. As a poll worker myself, I can tell you how confusing and frustrating it is for voters when they arrive at what had always been their polling place, to find it has been changed. For voters without ready access to transportation, it is extremely burdensome to expect them to travel outside their municipality to find their polling place. Voters will inevitably be disenfranchised by this bill.

Wisconsin Faith Voices for Justice urges this Committee to reject these unnecessary, burdensome, and disenfranchising measures.

Respectfully submitted,

Rabbi Bonnie Margulis
Executive Director

22 Chautauqua Trail, Madison, WI 53719 Phone: 608-513-7121 Email: wifaithvoices4justice@gmail.com

The mission of Wisconsin Faith Voices for Justice is to draw on the wisdom, courage, and strength of our various faith traditions to advance the common good. As progressive people of faith committed to crossing religious boundaries, we uphold the dignity of all human beings. Through advocacy, education, and partnership, we lift the voices of those who are underserved.



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Testimony of Matt Rothschild

Executive Director, Wisconsin Democracy Campaign

To the Senate Committee on Elections, Election Process Reform, and Ethics

April 15, 2021

Re: In opposition to SB 204 and 205

Chair Bernier, and other distinguished members of the Committee.

I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign.

Now in our 26th year, the Wisconsin Democracy Campaign tracks and exposes the money in Wisconsin politics and advocates for a full range of pro-democracy reforms so that we can have a democracy where everyone has an equal voice.

The Wisconsin Democracy Campaign strongly opposes SB 204 and SB 205.

But before I get into the specifics, I need to object, once again, to the raft of anti-voter bills that are being introduced here in Wisconsin and in 46 other states, to erect barriers to the exercise of our sacred freedom to vote.

This effort reinforces a pernicious lie and feeds a dangerous mass delusion about the legitimacy of the Biden presidency, and it corrodes the cornerstone of our democracy, which is respect for our electoral process.

You're playing with fire here, and I urge you to stop.

Now on to SB 204, which we have several problems with.

Number 1, it's wrong to prohibit the Wisconsin Elections Commission or any municipal or county clerk or election board from sending out absentee ballot applications en masse to registered voters. In a democracy, we should be encouraging people to vote, and that's what such mass mailings do. It's one reason why voter turnout was so high in 2020. And particularly in a pandemic, it makes sense for these governmental agencies to facilitate safe voting.



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The mass mailing of absentee ballot applications gives the voters the choice of how and when to vote, which ensures that voting is accessible and convenient for eligible Wisconsinites. It should be up to the voter to decide whether it makes sense to vote in person or with an absentee ballot, especially during a pandemic. And the decision by the Wisconsin Elections Commission to send out absentee ballot applications en masse was made by bipartisan agreement due to the gravity of the COVID pandemic, and the Commission should retain the flexibility to do so again, under similar circumstances. Wisconsinites should never have to choose between exercising our fundamental right to vote or risking our health or our very lives.

Number 2, SB 204 would impose a huge burden on those who are indefinitely confined or overseas non-military voters because they would no longer be able to receive their absentee ballots automatically.. Now they would have to show an ID when they fill out an absentee ballot request, and many indefinitely confined voters don't have a voter ID, and don't have access to getting one or submitting one. Plus, they would need to fill out an absentee ballot request every election Forcing indefinitely confined voters to fill out an absentee ballot request "every election" is nuts. Will they have to request an absentee ballot for a February primary and then for the spring election and then for the November election, every year?

Now on to SB 205, which we also have two big problems with.

First, this bill would require the administrator of a retirement home or residential care facility to notify relatives of the occupants as to when the special voting deputies will be coming to the facility to assist in the casting of absentee ballots. This is the worst kind of paternalism, as it assumes that everyone in a retirement home or residential care facility needs to have a family member next to them when they are voting. Most people in these homes and facilities make decisions for themselves every day of the week. They don't need to be babysat by some relative when they are doing their duty in our democracy. They shouldn't have their right to the privacy of their vote violated.

Second, this bill would also make it illegal for employees of a retirement home or residential care facility to even encourage a resident to go out and vote. Here's the language: "No



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employee of a qualified retirement home ... may influence 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." In a democracy, we all should be encouraging each other to vote! Plus, no other set of employees is prohibited from encouraging fellow citizens to vote, so this would likely violate their First Amendment and Fourteenth Amendment rights.

Let's not go backwards.

We've made great strides in this country over the last 200 years in making voting more accessible and in securing and expanding the freedom to vote.

Now is no time to reverse field.

Thanks for considering our views, and I welcome any questions you might have.



Greater Wisconsin
Agency on Aging Resources, Inc.

Date: April 15, 2021

To: Senator Bernier, Senator Darling, and members of the Senate Committee on Elections,
Election Process Reform and Ethics

From: Janet L. Zander, Advocacy & Public Policy Coordinator

Re: **Against SB 204** 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.

Against SB 205 relating to: absentee voting in certain residential care facilities and retirement homes and providing a penalty.

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) is a nonprofit agency committed to supporting the successful delivery of aging programs and services in our service area consisting of 70 counties (all but Dane and Milwaukee) and 11 tribes in Wisconsin. We are one of three Area Agencies on Aging in Wisconsin. Our mission is to deliver innovative support to lead aging agencies as we work together to promote, protect, and enhance the well-being of older people in Wisconsin. There are over one million adults age 60 and older residing in our service area.

Thank you for this opportunity to share testimony on SB 204 and SB 205. In 2020, nearly 25% of the electorate were age 65 and older¹. Voting is a high priority for many older adults, resulting in older voters forming a much larger share of all voters than their share in the electorate (64% in the 2018 election)². Despite a strong desire to vote, as people age, there are often barriers standing between their desire to vote and actually being able to vote.

Older adults are the fastest growing demographic of our state's population³. Within the older population, a large and growing percentage of people are age 85 and older. With advanced age people are more likely to have multiple chronic illnesses which can make it harder to get around. Additionally, many older adults no longer drive. Some parts of Wisconsin, particularly in the sparsely populated north, many people have a long way to go to vote and many communities do not have public transportation options widely available. For these reasons, it is not surprising that

¹ Cilluffo, A. & Fry, R, Pew Research Center, An Early Look at the 2020 Electorate (Jan 2019). Retrieved April 14, 2021 from <https://www.pewresearch.org/social-trends/2019/01/30/an-early-look-at-the-2020-electorate-2/>.

² Brandon, E., U.S. News, Why Older Citizens are More Likely to Vote (Oct. 2020). Retrieved April 14, 2021 from <https://money.usnews.com/money/retirement/aging/articles/why-older-citizens-are-more-likely-to-vote>.

³ U.S. Census Bureau (2020, June 25). 65 and Older Population Grows Rapidly as Baby Boomers Age. Retrieved March 16, 2021, from <https://www.census.gov/newsroom/pressreleases/2020/65-older-population-grows.html>.

absentee voting is generally more heavily utilized by older voters.⁴ Older adult voters also make up a large percentage of the voters who request an indefinitely confined status designation. In the November 2020 General election, two-thirds of the indefinitely confined absentee ballot applications came from voters over age 65.⁵

SB 204

SB 204 will make it more difficult for some older adults to vote. Some older indefinitely confined voters seek this designation as a means of indicating their wish to be a permanent absentee voter. Sending an absentee ballot to these voters for every election ensures they will not miss voting on issues impacting them and other citizens of their voting ward whether it is a national or local election. SB 204 proposes to eliminate the sending of absentee ballots to indefinitely confined voters and instead proposes sending them absentee ballot applications. The bill also proposes to eliminate the option for other absentee voters to apply to receive absentee ballots for all elections occurring in their voting municipality during the year of application. Under SB 204 all absentee voters other than military voters would need to complete an absentee ballot application (which would automatically be sent to indefinitely confined voters) for every separate election.

Some older voters face significant challenges completing the absentee ballot application. These challenges include, but are not limited to, not knowing how to request an absentee ballot application, not having the necessary required identification, and submitting proof of their identification. It can be difficult, particularly for those who do not drive, to get to the Department of Motor Vehicles to obtain a photo ID. Even for those who have photo IDs it can be challenging to obtain needed copies due to limited access to technology and/or limited ability. SB 204 would require indefinitely confined voters and most absentee voters to submit proof of identification for every election even if they received an absentee ballot from the municipal clerk by mail for a previous election, provided proof of identification with the previous ballot, and have not changed their name or address since providing that proof of identification.

During the COVID-19 pandemic many older voters (and voters of all ages) decided for health and safety reasons to vote by absentee ballot. For many this was a new experience, as they had always preferred to vote in-person at their local polling site. To help make this process a little easier for those who were unfamiliar, the Wisconsin Elections Commission mailed absentee ballot applications (thereby eliminating the confusion of how to apply) to all eligible voters who did not already have an absentee ballot application on file. SB 204 prohibits any municipal/county clerk or municipal/county board of election commissioners, and any person acting on behalf of the Wisconsin Elections Commission from sending/transmitting an absentee ballot application to anyone who has not requested one.

⁴ Stewart, C., III. (2020, March 20). Some Demographics on Voting by Mail. Retrieved April 13, 2021, from <https://electionupdates.caltech.edu/2020/03/20/some-demographics-on-voting-by-mail/>.

⁵ Wisconsin Elections Commission (2021, February 3), November 3, 2020 Election Data Report. Retrieved April 13, 2021, from <https://urbanmilwaukee.com/wp-content/uploads/2021/01/D.-November-2020-Election-Data-Report.pdf>.

The proposed absentee voting application process, photo ID requirements, and laws regarding unsolicited mailing/transmission of absentee ballot applications (regardless of the circumstances – including a national public health emergency) included in SB 204 will make it more difficult for some older absentee voters, including those who request indefinitely confined status, to vote.

SB 205

It is critical that all eligible voters have equal access and opportunity to participate in our electoral process, this includes voters in residential care facilities and retirement homes. The Wisconsin legislature has previously recognized that people living in residential care settings (nursing homes, community-based residential facilities [CBRFs], retirement homes, residential care apartment complexes [RCACs], and adult family homes) might have more difficulty accessing their polling place on Election day. To address the difficulties voters in care facilities may experience, laws were put in place to ensure greater access by requiring Special Voting Deputies (SVDs) to conduct in-person absentee voting for eligible residents in certain residential care facilities and retirement homes. The use of SVDs to conduct absentee voting in certain facilities should in no way impede voters' rights to vote privately and independently. Under current law, once arrangements have been made for SVDs to visit a facility, notice of the date and time of the SVDs' visit is posted in the facility, provided to news media, and placed on the local municipality's website (if applicable). In addition, upon the request of a relative on an occupant of the facility, the administrator *may* notify the relative of the date/time SVDs will be conducting absentee voting and permit the relative to be present in the room where the voting is conducted. SB 205 *requires* a facility administrator to provide notice of the dates and times when SVDs will be visiting the facility to each relative of a resident for whom the facility has contact information if the resident intends to vote by absentee ballot with the SVDs. This requirement provides residents no choice of whom or if they wish to have family members observe their voting (in addition to the SVDs and approved political party observers). Though these family members may not assist the resident with voting unless requested to do so by the voter (resident), the requirement to notify family members without permission from the resident implies voters in care facilities are less than qualified voters due to their age or infirmity and is discriminating.

Additionally, SB 205 would make it a felony for any employee of a residential care facility or qualified retirement home who influences an occupant of the home/facility to apply or not apply for an absentee ballot or cast or refrain from casting a ballot. It is unclear what is meant by influencing. Is informing residents that an election is coming up and asking if they wish to vote considered influencing? Is it considered influencing to assist a resident with securing, completing, or returning a ballot if requested, even if the resident was unavailable during either of the two SVDs' scheduled visits, but still wants to vote? Who would be able to provide assistance during health outbreaks (influenza, COVID-19, etc.) when all outside visits (SVDs, family members, etc.) are restricted? How do the provisions in SB 205 align with federal law that requires Medicare and Medicaid certified long-term care facilities to affirm and support the right of residents to vote? No one, whether providing requested assistance or not, should attempt to influence an occupant's/resident's decision for whom to cast a ballot; therefore, GWAAR would support the bills provision making it a

Class I felony for an employee of the home/facility to influence an occupant's decision for whom to cast a ballot.

Many, but not all care facilities, are eligible to have SVDs dispatched by the municipal clerk to conduct in-person absentee voting. We also know there have been times when eligible facilities were unable to utilize SVDs. Additionally, it is unclear if facilities and clerks have been able to identify all residents/occupants who wish to vote. This raises an important question; are all care facility residents, including those in care facilities served and not served by SVDs (permanently or temporarily), receiving the assistance they need to vote? Some residents need no assistance, other residents request help from family members (unless visiting restrictions are in place), but others may not have anyone to ask for assistance. To further strengthen the support available to voters in residential care facilities, GWAAR supports training for facility staff to ensure voters' rights are protected and they receive assistance, as needed, with voter registration and voting (in-person at the polls, in-person at an alternate site, or absentee). GWAAR supports voting processes that ensure every eligible older adult who wants to vote, can vote, no matter where they live or how they choose to vote.

Thank you for your consideration of these comments opposing SB 204 and SB 205. We appreciate the interest in and efforts of policy makers to preserve, protect, and enhance the voting rights of older adults and people with disabilities. We look forward to continuing to work with you on policies that improve the quality of life of older people in Wisconsin.

**Working together to promote, protect, and enhance
the well-being of older people in Wisconsin.**

Contact:

Janet Zander

Advocacy & Public Policy Coordinator, MPA, CSW

Greater Wisconsin Agency on Aging Resources

janet.zander@gwaar.org

(715) 677-6723 or (608) 228-7253 (cell)

Testimony for Senate Committee on Elections April 15th Public Hearing
From Lisa Burg Milwaukee Wisconsin

I am writing to ask you to oppose Senate Bill 204/ Assembly Bill 201 which would virtually eliminate Wisconsin's "Indefinitely Confined" voter status. As a voter with a disability, it is very important to me to be a permanent absentee voter which is the benefit of Wisconsin's Indefinitely Confined Voter status.

I'm a 63-year-old woman with Cerebral Palsy. Since 1989, I have lived in my own wheelchair accessible apartment with the help of come in home health aides. I use an electric wheelchair, and I'm unable to get into a car. I need a wheelchair equipped vehicle, and use the County Paratransit van to get around. It's my only means of transportation. I am grateful to have it, but you have to schedule a ride two days in advance, and you have to allow a lot of waiting time on both ends because it is a shared ride service. It would be very difficult to vote using the Paratransit van, because I wouldn't know two days in advance when to tell them to come back, and would probably also have to ride around for awhile on the way to vote. After voting, I would also have to wait for a long time fo the van to return to pick me up. The process would involve a lot of time, trouble and planning, and waiting in a location I wasn't familiar with. Even though I believe that my vote is very important, I doubt that I would do it much, even before Covid, because of the logistical and safety issues.

I think it was my social worker they told me how to get an absentee ballot back in 1989 when I first moved out on my own. I was told at that time that as long as I always returned my ballot, I would continue to get them and I have voted in every election since then. I rely on continuing to get my absentee ballot. It enables me to concentrate and who I want to vote for, rather than how or if I'm going to get to the voting site. My physical condition isn't going to get better, and in fact I get less mobile as I get older, so having to reapply every time wouldn't make sense, and would probably make me miss elections. I really hope they leave things the way they are.

I am also concerned because I know this bill would make it harder to vote for so many other people with disabilities and older adults. I also know that it is hard for people to get to DMV to get a photo ID, because of lack of transportation and because it can be very hard for some people to leave their home because of their disability or health condition. That is why they call it "indefinitely confined voter." My only means of transportation is paratransit which requires to know 24 hours in advance when you want to return My only means of transportation is paratransit which requires to know 24 hours in advance when you want to return, and no one knows how long the DMV will take. Many things that other people take for granted are difficult for us. I have a state ID, which I got online with the help of a social worker, but most of my disabled friends never bothered to get one, and don't have the tech to easily make a copy. Many low income disabled, particularly older ones, don't have tech, and wouldn't waste a paratransit ride to go make a copy.

SB 204/ AB 201 would create a burden for me and many other voters with disabilities who rely on being permanent absentee voters. It would just present

another series of hurdles in a life full of hurdles, and people who already feel disenfranchised will just give up and not vote. Please oppose this bill and make sure our elections continue to be accessible for me and many other voters.

I am also concerned about SB 205/ AB 179 because it would make it harder for people who live in a nursing home or group home to vote. Many people in these settings need assistance from staff to vote, because they have visual or motor difficulties, They also need to have staff let them know when there is an election coming up, and that they have the option to register to vote or to request an absentee ballot.

Thank you for considering my comments and I ask you to oppose SB 204 and SB 205.

Sincerely,

Lisa Burg
3576 S 43rd St #11
Milwaukee, WI 53220
(414) 559-6605

April 15, 2021



Comments from the ACLU of Wisconsin
In opposition to SB 204, 205, and 211
Senate Committee on Elections, Election Process Reform and Ethics

Chair Bernier and members of the committee:

Established in 1965, the ACLU Voting Rights Project has worked to protect the gains in political participation won by racial and language minorities since the passage of the 1965 Voting Rights Act. Here in Wisconsin, the ACLU has worked on voting rights for almost as long, and has been a lead partner of Wisconsin Election Protection for at least 15 years, along with many other groups such as the League of Women Voters, the Lawyers' Committee for Civil Rights Under Law, and many other nonpartisan organizations.

SB 204 imposes unnecessary and deliberate burdens on indefinitely confined voters who, by definition, are *confined to their homes*, and wish to vote from home. This change would require confined voters to leave home, collect documents, get to the DMV, and obtain photo identification. Not only is this anti-voter, but it is also anti-common sense. For voters who already possess one of the limited forms of identification allowed by Wisconsin's strict photo ID law, this law may require them to leave home to obtain copies of their ID - requirements that will impose more than a *de minimus* burden on these eligible voters and thus also appears to be unconstitutional. The bill also requires overseas voters to obtain IDs - something which, in the case of overseas voters, maybe impossible, since if they lack a passport or other ID they will not be able to obtain one by going directly to a DMV while abroad. In short, these changes may make it extremely difficult for these two types of voters to request an absentee ballot and vote, even though they are eligible to do so.

SB 204 also imposes substantial burdens on already overworked clerks across Wisconsin, most of whom work only part-time, and on voters, by prohibiting clerks from affirmatively mailing absentee applications and requiring voters to submit an absentee application for each election. This means that voters must fill out duplicative and unnecessary paperwork to request a ballot and clerks must spend time processing absentee ballot applications for every election. The bill imposes an additional burden on clerks by also requiring two separate documents be completed for in-person absentee voters - a requirement that existed in the past and that clerks have specifically

requested be eliminated because of the burdens the system imposed on them and voters. For these reasons, we oppose SB 204.

We oppose **SB 205**, which limits the right to vote of residents in nursing homes and group homes by placing burdens and restrictions on people trying to help these residents vote. The bill also potentially comes into conflict with federal law which requires that nursing homes support the right of residents to vote. The bill does this by potentially and unreasonably criminalizing the behavior of nursing home staff who even educate voters about their right to vote by absentee ballot. While the bill uses the language "may influence" voters to vote, it remains unclear what qualifies as "influence," creating a chilling effect in nursing homes and group homes offering assistance to their residents seeking to utilize their right to vote. Further, this bill would require the administrators of these residential facilities to notify relatives of these eligible voters as to when the special voting deputies will be coming to the facility to assist in the casting of absentee ballots. This time-consuming requirement may also have the unintended consequence of discouraging nursing home and group home administrators from requesting that a special voting deputy be deployed to their facility so that their residents can vote directly at their living location.

SB 211 further burdens our already overworked clerks in the administration of in-person absentee voting. The bill requires that in-person absentee voters fill out an absentee application separate from the ballot certification envelope. This duplicitous and unnecessary step will not only slow down the in-person absentee voting process but also will substantially increase the amount of paperwork clerks must process. This requirement existed in the past and clerks specifically requested that it be removed. As a result, we do not support SB 211.

Again, we urge you to not move forward on Senate Bills 204, 205, and 211.



See Our Ability

Testimony for Senate Committee on Elections April 15th Public Hearing

I am writing on behalf of People First Wisconsin to share our concerns about SB 204/ AB 201 and SB 205/ AB 179 because they would make it harder for many people with disabilities to vote.

Voting is one of our most important democratic rights. It is wrong to try and limit our rights as citizens. If these measures are passed, you are purposely excluding our voices. Many people with disabilities depend on their peers, family members and caregivers to assist them in accessing and exercising their rights as individuals. Please do not try to silence our voices and limit our participation. Our motto is "Nothing about us, without us".

People First is concerned that SB 204 would end the option for Indefinitely Confined voters to receive an absentee ballot for every election. Many people with disabilities have a very difficult time leaving their home to go to vote. They may have limited access to transportation. Many people don't have the access to a computer or smartphone to request an absentee ballot every year or upload photo ID. Having the option to be a permanent absentee voter is very important to allow people with disabilities to participate in our democracy.

We are also concerned that SB 204 would require these voters to provide photo ID. Many indefinitely confined voters have a photo ID and could provide a copy if they have access to the technology to do this. Some people with disabilities do not have photo ID and it's very difficult for them to get to the DMV to get a photo ID because of their health and/or lack of transportation. That is why the Legislature has not required that these voters provide photo ID.

SB 205/ AB 179 would make it harder for voters who live in nursing homes and group homes to vote. Many people with intellectual disabilities live in group homes and nursing homes. It's important that staff are able to tell them when an election is coming up and ask if they want to register to vote or request an absentee ballot. SB 205 would make it a felony for staff to offer assistance. We are worried that staff will be afraid to offer any help with voting to people who live in group homes or nursing homes, and that they will not be able to vote.

Thank you for making sure that people with disabilities have their right to vote protected in Wisconsin law.

Sincerely,

Cindy Bentley
Executive Director
People First Wisconsin



SB 204

**Wisconsin State Senate
Committee on Elections, Election Process Reform and Ethics**

April 15, 2021

Rebecca Hogan
The Hamilton Consulting Group

On behalf of Madeline Malisa
Opportunity Solutions Project

Chairwoman Bernier, Vice-Chairwoman Darling, and members of the committee,

My name is Rebecca Hogan, and I am speaking on behalf of Madeline Malisa of the Opportunity Solutions Project, a non-partisan, non-profit public policy organization who works on election integrity issues in states across the country. I'm testifying today in support of SB 204. I'd like to highlight a few key provisions of the bill.

Sections 6 and 13 prohibit any municipal clerk, county clerk, county board of election commissioners, and any person acting on behalf of the Elections Commission from mailing absentee ballot applications or ballots unless the voter applies for them. A violation of this prohibition is a felony. This reform will provide both security and clarity for Wisconsin voters. The practice of mailing applications and ballots to voters who have not requested them leads to confusion and opens the door to ballot harvesting.

Wisconsin is one of several states that are considering similar legislation including Kansas, Michigan, and South Dakota. Iowa and Georgia recently enacted more robust versions, which specifically ban third parties from mailing pre-filled absentee applications to potential voters. North Carolina, Oklahoma, and Tennessee have already enacted third party bans.

Candidates and campaigns often mail out pre-filled absentee applications containing errors or addressed to ineligible voters. For example, in 2020 a third party mailed more than 500,000 absentee ballot applications to Virginia voters with incorrect information, which resulted in widespread voter confusion.¹ In 2018 the results of the 9th Congressional District race in North Carolina were thrown out over a ballot harvesting scandal.² In response, North Carolina passed a law prohibiting local jurisdictions from accepting absentee applications that were partially or fully filled in by someone other than the voter.³

Given these recent examples, Wisconsin could consider expanding the ban to also prohibit third parties from sending out pre-filled absentee ballot applications. Overall, SB 204 is a commonsense reform and a good step forward in preventing voter confusion and increasing election security here in Wisconsin.

Thank you for your time.

¹Samantha Mitchell & Heather Graf, "More than 500,000 Virginia voters were mailed absentee applications with incorrect info," WJLA (2020), <https://wjla.com/news/local/more-than-500000-virginia-voters-were-mailed-absentee-applications-with-incorrect-info>.

² Luke Decocok, "Two years after Bladen County ballot Fraud. Absentee security strengthened by new law," News Observer (2020), <https://www.newsobserver.com/news/politics-government/election/article246344405.html>.

³ N.C. Gen. Stat. § 163-230.2(e).



WISCONSIN BOARD FOR PEOPLE
WITH DEVELOPMENTAL DISABILITIES

April 15, 2021

Senator Bernier
Chair, Senate Committee on Elections, Election Process Reform, and Ethics
Wisconsin State Capitol, Rm 319 S
Madison, WI 53707

Dear Senator Bernier and Committee members:

The Wisconsin Board for People with Developmental Disabilities (BPDD) is concerned that changes proposed in SB 204, SB 205, and SB 214 could negatively and disproportionately impact people with disabilities.

SB 204—Absentee Voting

Many people with disabilities rely on absentee voting to exercise their right to vote and use the “indefinitely confined” option because of barriers to independently getting around in their community, including to the polls. These barriers are consistent from election to election. Many non-drivers, people with chronic or intermittent health conditions, people with sensory disabilities and others face such significant mobility challenges that absentee voting options are the only way they can do the advance planning necessary to guarantee they can exercise their right to vote.

SB 204 eliminates the ability for “indefinitely confined” voters to automatically receive an absentee ballot. This adds significant administrative burden to the voter to request an absentee ballot for each election and introduces delay in receipt of requested ballot as a variable outside of the voter’s control that can interfere with the voter’s vote being counted.

SB 204 also requires indefinitely confined voters to provide Photo ID to receive an absentee ballot. Indefinitely confined voters are far more likely to not have a Photo ID—less likely to have a driver’s license, passport, university ID, or active military ID, etc.—and face significant barriers to getting one. Many DMV sites are not on public transit routes, have limited hours, and are geographically far for people with disabilities to travel. Even for indefinitely confined voters who have Photo IDs, requiring one to request an absentee ballot adds logistical complexity that can become an additional barrier. This group of voters is less likely to have sufficient internet access or devices that connect to the internet to access and upload a Photo ID picture to the MyVote website when requesting an absentee ballot. Many of these voters do not use computers at all, so requiring an upload would effectively shut them out of the election process.

SB 205 Absentee voting in residential care facilities


Many people with disabilities live in group home or other congregate residential living settings or may be temporarily placed in nursing homes. Many of these residents have physical limitations that interfere with filling out a ballot or sensory issues that interfere with reading and may need assistance to complete and mail their absentee ballot. Needing assistance to mark a ballot—if the voter does not have use of their hands for example—should not mean that the voter loses their right to vote. SB 205 prohibits residential staff from offering or helping residents complete their ballots and imposes severe penalties for doing so. Preventing

residents from asking trusted staff to complete a clerical task on their behalf interferes with the residents' right to vote, and unnecessarily criminalizes actions of staff that would be considered a reasonable accommodation or help if done at a polling place or by a family member or stranger.

This bill requires notification of when special deputies will be at facilities to relatives of residents who have already indicated they want to vote absentee but does not appear to require notification of the residents themselves. If the courts have not taken away a resident's legal right to vote, and it is the residents who are exercising their right to vote, it seems they should be notified of opportunities to do so. Not all residents have families or are close with family members.

BPDD is charged under the federal Developmental Disabilities Assistance and Bill of Rights Act with advocacy, capacity building, and systems change to improve self-determination, independence, productivity, and integration and inclusion in all facets of community life for people with developmental disabilities¹.

Thank you for your consideration,



Beth Swedeen, Executive Director, Wisconsin Board for People with Developmental Disabilities

¹ More about BPDD https://wi-bpdd.org/wp-content/uploads/2018/08/Legislative_Overview_BPDD.pdf.

Testimony on Voter Bills affecting Persons with Disabilities

Thank you for the opportunity to provide testimony about the bills that were discussed in the public hearing on April 15th. I regret that the state was unable to locate and provide a sign language interpreter so that I could testify virtually. I thank Nathan Duerkop at Senator Bernier's office for arranging to have the automatic live transcription in Zoom turned on so that I could follow the hearing.

My name is Brian Peters, and I work at Independence First, a Center for Independent Living located in Milwaukee. We serve the four-county metropolitan area, which has approximately a quarter of the state's population of persons with disabilities. Through my work at Independence First, and especially in our partnership with the state IRIS program, I have met many people with disabilities who find it difficult to leave their homes because of their home's inaccessibility, because of transportation barriers, and they lack access to technology and Internet.

My wife is also a person with chronic pain issues that makes it difficult for her to leave the house. I cannot tell you how many times we hoped to go somewhere and we had to cancel because of her pain that day. For that reason, she has been receiving ballots as an indefinitely confined absentee voter. Some of the bills introduced in the state legislature will directly impact her and many other people with disabilities.

I believe that some of the bills will make it difficult for some people with disabilities to vote, and one may very well violate federal law.

Cumulatively, the bills create more barriers for voters with disabilities, requiring people with disabilities to jump through unnecessary hoops in order to retain the ability to vote from home. Worse yet, the bills would criminalize someone who might inadvertently violate one of the provisions, such as a friend or a caregiver who agrees to drop off ballots for neighbors.

SB 204/AB 201 create unnecessary barriers and hoops to jump through for voters with disabilities. This removes the option for "indefinitely confined" voters to automatically receiving absentee ballots; instead, those voters will automatically receive applications that they must fill out every time. "Indefinitely Confined" voters will also be required to submit proof of identification for each election in which they attempt to vote absentee. Many of those voters are older adults and/or have disabilities that have difficulty leaving their home. Those voters frequently do not have access to technology or Internet to allow them to upload documentation. To demand they do it in every election creates an insurmountable barrier for many.

SB 206/AB 180 creates significant hurdles for voters who have difficulty leaving their homes. This requires that voters provide a statement of their status under oath. Voters under the age of 65 need to have their statement signed by a medical professional. This visit would not be covered by Medicare and is an unnecessary expense for a population that may not be able to easily afford it. People who sign statements considered to be false would be charged with a felony. Many people with disabilities have conditions that varies day to day, and makes it difficult to predict when they would be able to leave their homes. This can be difficult for other people to understand, even medical professionals. Not many would be willing to sign a statement that puts them at risk of a felony charge on basis of a 15-minute visit. Moreover, frankly, many would rightfully consider it a waste of their valuable time to schedule an office visit for this purpose.

Those bills and others takes the extraordinary step of criminalizing actions that may be the result of a lack of awareness, a misunderstanding, or even an error. The felony charge could result in up to 3 ½ years in prison, and/or up to a \$10,000 fine! This is a very disproportionate response to the minor offenses such as a kindly neighbor dropping off a ballot, a county clerk making an inadvertent mistake, or even a dispute over whether someone is “disabled enough” to deserve the indefinitely confined status.

I am asking the state legislature to reconsider those bills and not bring them to the floor for a vote.

Sincerely,

Brian Peters
Community Access & Policy Specialist
Independence First



GEORGE L. CHRISTENSON
MILWAUKEE COUNTY CLERK

Senate Committee on Elections, Election Process Reform and Ethics

Public Hearing

Thursday, April 15, 2021

Written Testimony provided by Milwaukee County Clerk George L. Christenson

Chairwoman Bernier and Members of the Committee, thank you for the opportunity to submit this written testimony before your honorable body. In my capacity as Milwaukee County Clerk, I also serve as Executive Director of the Milwaukee County Election Commission which is comprised of three 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 in bi-partisan fashion with this committee and legislative leaders to identify bonafide ways to improve upon our election processes. Thank you.

Senate Bill 204 – 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 d 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.

Senate Bill 205 – 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.

Senate Bill 211– Oppose

I am in opposition to this bill because, not unlike SB 204, 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.