



State of Wisconsin
2023 - 2024 LEGISLATURE

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JK:skw

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 572**

November 7, 2023 - Offered by COMMITTEE ON CAMPAIGNS AND ELECTIONS.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 6.33 (1), 12.60 (1) (a) and 54.25 (2) (c) 1. g.; **to repeal and**
2 **recreate** 6.875 (6) (c) 2.; and **to create** 5.057 of the statutes; **relating to:**
3 absentee voting in certain residential care facilities and retirement homes and
4 court determinations of incompetency and ineligibility to vote.

Analysis by the Legislative Reference Bureau

Absentee voting in certain facilities

Under current law, under certain circumstances, a municipal clerk must dispatch special voting deputies to a residential care facility or qualified retirement home so that the occupants of the facility or home may cast an absentee ballot in person with the special voting deputies rather than vote in person at the appropriate polling place or request and complete an absentee ballot by mail. Under current law, a retirement home is a facility occupied as a primary residence by 10 or more unrelated individuals. A qualified retirement home is a retirement home that has a significant number of occupants who lack adequate transportation to the polling place, need assistance in voting, are aged 60 or over, or are indefinitely confined.

Under current law, the special voting deputies must arrange with the administrator of the residential care facility or qualified retirement home one or more convenient times to visit the facility or home. The administrator of the facility or home may, upon the request of a relative of an occupant of the facility or home,

notify the relative of the time or times when special voting deputies will conduct absentee voting at the facility or home.

This bill requires the administrator, or the administrator's designee, to provide notice by email of the dates and times when the deputies will be visiting the residential care facility or qualified retirement home to each individual designated as a contact by the occupant who intends to vote by absentee ballot with the special voting deputies.

Determinations of incompetency

Under current law, no person who is incapable of understanding the objective of the elective process or who is under a guardianship may vote unless a court has determined that the person is competent to vote. Current law also allows any voter in a municipality to petition a circuit court to determine whether a person residing in the municipality is incapable of understanding the objective of the elective process. If the court determines that the person is incapable of such understanding, the person is not eligible to register to vote or to vote. Current law requires the clerk of the circuit court to communicate the court's determinations, in writing, to the election officials who are responsible for determining challenges to registration and voting that may be brought against the person.

This bill requires the circuit court to notify the Elections Commission, by email, of the court's determination regarding incompetency and ineligibility to vote. Under the bill, when the commission receives a determination of incompetency and ineligibility to vote, the commission must, within three business days, change the status of the voter subject to the determination to inactive on the official voter registration list, note on the list that the voter is ineligible to vote, and notify the voter and the voter's municipal clerk of the voter's change in status. The bill also provides that if a court reviews a determination of incompetency and ineligibility to vote and restores the voter's right to vote, upon receipt of that determination by email, the commission must, within three business days, notify the voter that the voter is eligible to vote and that the voter is required to complete a new registration to vote if the voter intends to vote. Under the bill, the clerk must examine the registration list before issuing a ballot to any potential voter.

Finally, under current law, an individual who votes at an election but who does not have the necessary qualifications to vote is guilty of a Class I felony. Under the bill, the penalty does not apply to an individual who has been determined ineligible to vote due to incompetency, but the individual's vote is excluded from the final tally for that election.

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

1 **5.057 Determination of ineligibility to vote due to incompetency. (1)**

2 Upon receipt of a determination of ineligibility to register to vote or to vote under
3 s. 54.25 (2) (c) 1. g., the commission shall, no later than 3 business days after receiving
4 the determination, change the status of the elector subject to the determination to
5 inactive on the official registration list under s. 6.36, note on the list that the elector
6 is ineligible to vote in accordance with s. 6.03 (3), and notify the elector and the
7 elector's municipal clerk of the elector's change in status. If the commission does not
8 have a record of the elector upon receipt of a determination of ineligibility, the
9 commission shall create a record listing the elector as ineligible to vote in accordance
10 with s. 6.03 (3) and provide a copy of that record to the elector's municipal clerk. Upon
11 receipt of a registration to vote, the municipal clerk shall examine the registration
12 list to determine whether the elector is ineligible to vote in accordance with s. 6.03
13 (3) and shall notify the elector if the clerk determines that the elector is ineligible.
14 The clerk shall examine the registration list before issuing a ballot to any potential
15 elector.

16 **(2)** If under s. 54.64 (2) (a) a court subsequently reviews a determination of
17 ineligibility to vote under s. 54.25 (2) (c) 1. g. and restores an elector's right to vote,
18 as provided under s. 54.64 (2) (c), upon receipt of the reviewing court's determination,
19 the commission shall, no later than 3 business days after receiving the
20 determination, notify the elector that the elector is eligible to vote, but is required
21 to complete a new voter registration if the voter intends to vote. The commission
22 shall submit with the notice a registration form for the elector to complete and return
23 to the municipal clerk, if the elector intends to vote.

24 **SECTION 2.** 6.33 (1) of the statutes is amended to read:

1 6.33 (1) The commission shall prescribe the format, size, and shape of
2 registration forms. All nonelectronic forms shall be printed and each item of
3 information shall be of uniform font size, as prescribed by the commission. Except
4 as otherwise provided in this subsection, electronic forms shall contain the same
5 information as nonelectronic forms. The municipal clerk shall supply sufficient
6 forms to meet voter registration needs. The commission shall design the form to
7 obtain from each elector information as to name; date; residence location; location of
8 previous residence immediately before moving to current residence location;
9 citizenship; date of birth; age; the number of a current and valid operator's license
10 issued to the elector under ch. 343 or the last 4 digits of the elector's social security
11 account number; whether the elector has resided within the ward or election district
12 for the number of consecutive days specified in s. 6.02 (1); whether the elector has
13 been convicted of a felony for which he or she has not been pardoned, and if so,
14 whether the elector is incarcerated, or on parole, probation, or extended supervision;
15 whether the elector is disqualified on any other ground from voting, including being
16 adjudicated incompetent to exercise the right to register to vote or to vote in an
17 election; and whether the elector is currently registered to vote at any other location.
18 The forms shall provide check boxes for the elector to indicate whether he or she is
19 disqualified to vote and, if disqualified to vote, the grounds for which the elector is
20 so disqualified. The commission shall include on the nonelectronic form a space for
21 the elector's signature and on the electronic form the authorization specified under
22 s. 6.30 (5). Below the space for the signature or authorization, respectively, the
23 commission shall include the following statement: "Falsification of information on
24 this form is punishable under Wisconsin law as a Class I felony." The commission
25 shall include on the form a space to enter the name of any inspector, municipal clerk,

1 or deputy clerk under s. 6.55 (2) who obtains the form and a space for the inspector,
2 clerk, or deputy clerk to sign his or her name, affirming that the inspector, clerk, or
3 deputy clerk has accepted the form. The commission shall include on the form a
4 space for entry of the ward and aldermanic district, if any, where the elector resides
5 and any other information required to determine the offices and referenda for which
6 the elector is certified to vote. The commission shall also include on the form a space
7 where the clerk may record an indication of whether the form is received by mail or
8 by electronic application, a space where the clerk shall record an indication of the
9 type of identifying document submitted by the elector as proof of residence under s.
10 6.34 or an indication that the elector's information in lieu of proof of residence was
11 verified under s. 6.34 (2m), the name of the entity or institution that issued the
12 identifying document, and, if the identifying document includes a number that
13 applies only to the individual holding that document, that number. The commission
14 shall also include on the form a space where the clerk, for any elector who possesses
15 a valid voting identification card issued to the person under s. 6.47 (3), may record
16 the identification serial number appearing on the voting identification card. Each
17 county clerk shall obtain sufficient registration forms for completion by an elector
18 who desires to register to vote at the office of the county clerk under s. 6.28 (4).

19 **SECTION 3.** 6.875 (6) (c) 2. of the statutes is repealed and recreated to read:

20 6.875 (6) (c) 2. The administrator of a qualified retirement home or residential
21 care facility, or the administrator's designee, shall provide notice by email of the
22 dates and times when the special voting deputies will be visiting the home or facility
23 to each individual designated as a contact by the occupant who intends to vote by
24 absentee ballot with the deputies. The content of the email shall contain a disclaimer
25 that the occupant maintains the right of privacy and that the notice is for information

1 purposes only. The administrator, or administrator's designee, may provide the
2 same notice to any other individual upon the occupant's request. Any individual
3 receiving a notice under this subdivision may be present in the room where the voting
4 is conducted.

5 **SECTION 4.** 12.60 (1) (a) of the statutes is amended to read:

6 12.60 (1) (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3)
7 (a), (e), (f), (j), (k), (L), (m), (y) or (z) is guilty of a Class I felony. This paragraph does
8 not apply to a violation of s. 12.13 (1) (a) by an individual who is determined ineligible
9 to register to vote or to vote under s. 54.25 (2) (c) 1. g., but the individual's vote shall
10 not be included in the final tally for that election.

11 **SECTION 5.** 54.25 (2) (c) 1. g. of the statutes is amended to read:

12 54.25 (2) (c) 1. g. The right to register to vote or to vote in an election, if the court
13 finds that the individual is incapable of understanding the objective of the elective
14 process. Also, in accordance with s. 6.03 (3), any elector of a municipality may
15 petition the circuit court for a determination that an individual residing in the
16 municipality is incapable of understanding the objective of the elective process and
17 thereby ineligible to register to vote or to vote in an election. This determination
18 shall be made by the court in accordance with the procedures specified in this
19 paragraph. If a petition is filed under this subd. 1. g., the finding of the court shall
20 be limited to a determination as to voting eligibility. The appointment of a guardian
21 is not required for an individual whose sole limitation is ineligibility to vote. The
22 court shall, no later than 3 days after the determination, notify the elections
23 commission by email of the determination of the court shall be communicated in
24 writing by the clerk of court to the election official or agency charged under s. 6.48,
25 6.92, 6.925, 6.93, or 7.52 (5) with the responsibility for determining challenges to

1 ~~registration and voting that may be directed against that elector. An email~~
2 ~~notification sent to the elections commission under this subd. 1. g. shall remain~~
3 ~~confidential, except as otherwise provided under s. 19.36. The court shall also, at the~~
4 ~~time of the determination, provide the determination in writing to the elector and the~~
5 ~~elector's guardian, if applicable. The determination may be reviewed as provided in~~
6 ~~s. 54.64 (2), and the court shall notify the elections commission, the elector, and the~~
7 ~~elector's guardian, if applicable, by mail and email of any subsequent determination~~
8 ~~of the court shall be likewise communicated by the clerk of court. All notices provided~~
9 ~~to the elections commission under this subd. 1. g. shall include the full name;~~
10 ~~residential address, including city, state, and zip code; mailing address, if different~~
11 ~~than the residential address; and date of birth of the individual subject to the~~
12 ~~determination. If the court appoints a guardian for an individual who is ineligible~~
13 ~~to vote, the guardian shall immediately report any residential or mailing address~~
14 ~~change for the individual to the court, and the court shall, no later than 3 days after~~
15 ~~the determination, notify the elections commission of that address by email. The~~
16 ~~court shall use a standardized notice of eligibility form to communicate its~~
17 ~~determinations to the elector and the elector's guardian, if applicable.~~

18 (END)