



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1537/1
JK&MPG:skw

2021 BILL

1 **AN ACT** *to amend* 6.86 (1) (a) 1., 6.87 (4) (b) 1. and 12.60 (1) (a); and *to create*
2 6.856 and 12.13 (3) (md) of the statutes; **relating to:** the secure delivery of
3 absentee ballots and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes related to obtaining and returning absentee ballots.

Current law provides that a voter may make a written application to the municipal clerk to obtain an absentee ballot by mail, in person at the clerk's office or at an alternate absentee ballot site, by an agent for a hospitalized voter, by delivering an application to a special voting deputy, or electronically. This bill also allows a voter to use a for-profit commercial delivery service that moves parcels nationally and internationally to return an absentee ballot application.

Current law requires that an absentee ballot be returned by mail or in person to the municipal clerk. Under the bill, an absentee ballot must be returned by mail or by the voter, a member of the voter's immediate family, or the voter's legal guardian to the office of the municipal clerk; to the municipal clerk at an alternate absentee ballot site; to the site of a collection event; or to the voter's polling place on election day. If the voter is unable to deliver the absentee ballot and has no legal guardian or immediate family residing in this state, the voter may designate, in writing, one person who is a registered voter in this state to deliver the ballot, except that the voter may not designate a candidate on the ballot nor compensate the person to deliver the ballot. No person designated to deliver a ballot may deliver more than

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one ballot for any election for a person who is not a member of the person's immediate family.

The bill allows a municipality to designate a site other than the municipal clerk's office as a location for a voter to return his or her completed absentee ballot. Unlike an alternate absentee ballot site under current law, a site designated for the collection of completed absentee ballots may not be used by a voter to make a request for and vote by absentee ballot. However, similar to an alternate absentee ballot site, a designated collection site must be located as near as practicable to the office of the municipal clerk. In addition, like an alternate absentee ballot site, a collection site must be staffed by the municipal clerk or employees of the clerk and be accessible to all individuals with disabilities. Under the bill, a voter may return his or her completed absentee ballot to a collection site only during the period that coincides with the period for making applications for in person absentee ballots. That period begins no earlier than 14 days preceding an election and ends no later than the Sunday preceding that election.

Finally, the bill prohibits a person from obtaining a marked absentee ballot from another person in order to deliver it to the municipal clerk or polling place, unless the person obtaining the ballot is a member of the voter's immediate family or the voter's legal guardian. A person who violates this prohibition is guilty of a Class I felony.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 6.856 of the statutes is created to read:

2 **6.856 Collection events.** The governing body of a municipality may elect to
3 designate a site other than the office of the municipal clerk or board of election
4 commissioners as a location for an elector to deliver his or her completed absentee
5 ballot. The designated site shall be located as near as practicable to the office of the
6 municipal clerk or board of election commissioners and no site may be designated
7 that affords an advantage to any political party. No site designated under this
8 subsection may be used by an elector to make a request for and vote by absentee

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1 ballot. The designated site shall be staffed by the municipal clerk or the executive
2 director of the board of election commissioners, or employees of the clerk or the board
3 of election commissioners, and shall be accessible to all individuals with disabilities.
4 An elector may deliver his or her completed absentee ballot to a location designated
5 under this subsection only during the period for making in-person applications for
6 an absentee ballot under s. 6.86 (1) (b). A person may observe the proceedings at a
7 location designated under this subsection as provided in s. 7.41.

8 **SECTION 2.** 6.86 (1) (a) 1. of the statutes is amended to read:

9 6.86 (1) (a) 1. By mail or by a for-profit commercial delivery service moving
10 parcels nationally and internationally.

11 **SECTION 3.** 6.87 (4) (b) 1. of the statutes is amended to read:

12 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, an elector voting
13 absentee, other than a military elector or an overseas elector, shall make and
14 subscribe to the certification before one witness who is an adult U.S. citizen. A
15 military elector or an overseas elector voting absentee, regardless of whether the
16 elector qualifies as a resident of this state under s. 6.10, shall make and subscribe
17 to the certification before one witness who is an adult but who need not be a U.S.
18 citizen. The absent elector, in the presence of the witness, shall mark the ballot in
19 a manner that will not disclose how the elector's vote is cast. The elector shall then,
20 still in the presence of the witness, fold the ballots so each is separate and so that the
21 elector conceals the markings thereon and deposit them in the proper envelope. If
22 a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that
23 the elector conceals the markings thereon and deposit the ballot in the proper
24 envelope. If proof of residence under s. 6.34 is required and the document enclosed
25 by the elector under this subdivision does not constitute proof of residence under s.

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1 6.34, the elector shall also enclose proof of residence under s. 6.34 in the envelope.
2 Except as provided in s. 6.34 (2m), proof of residence is required if the elector is not
3 a military elector or an overseas elector and the elector registered by mail or by
4 electronic application and has not voted in an election in this state. If the elector
5 requested a ballot by means of facsimile transmission or electronic mail under s. 6.86
6 (1) (ac), the elector shall enclose in the envelope a copy of the request which bears an
7 original signature of the elector. The elector may receive assistance under sub. (5).
8 The return envelope shall then be sealed. The witness may not be a candidate. The
9 envelope shall be mailed by the elector, or delivered ~~in person,~~ by the elector, a
10 member of the elector's immediate family, or the elector's legal guardian to the office
11 of the municipal clerk issuing the ballot or ballots; to the municipal clerk at an
12 alternate absentee ballot site under s. 6.855; to the site of a collection event under
13 s. 6.856; or to the elector's polling place on election day. If the elector is unable to
14 deliver the return envelope and has no legal guardian or immediate family residing
15 in this state, the elector may designate, in writing, one person who is registered to
16 vote in this state to deliver the return envelope as provided in this subdivision, except
17 that the elector may not designate a candidate on the ballot nor compensate the
18 person to deliver the envelope. No person designated to deliver a return envelope
19 may deliver more than one envelope for any election for a person who is not a member
20 of the person's immediate family. If the envelope is mailed from a location outside
21 the United States, the elector shall affix sufficient postage unless the ballot qualifies
22 for delivery free of postage under federal law. Failure to return an unused ballot in
23 a primary does not invalidate the ballot on which the elector's votes are cast. Return
24 of more than one marked ballot in a primary or return of a ballot prepared under s.
25 5.655 or a ballot used with an electronic voting system in a primary which is marked

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1 for candidates of more than one party invalidates all votes cast by the elector for
2 candidates in the primary. In this subdivision, “immediate family” means persons
3 who are related as spouses, as siblings, or as parent and child.

4 **SECTION 4.** 12.13 (3) (md) of the statutes is created to read:

5 12.13 (3) (md) Obtain a marked absentee ballot from another person in order
6 to deliver it to the proper municipal clerk or polling place, unless the person
7 obtaining the ballot is a member of the elector’s immediate family, the elector’s legal
8 guardian, or a person designated to deliver the ballot under s. 6.87 (4) (b) 1. In this
9 paragraph, “immediate family” means persons who are related as spouses, as
10 siblings, or as parent and child.

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

12 12.60 (1) (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3)
13 (a), (e), (f), (j), (k), (L), (m), (md), (y) or (z) is guilty of a Class I felony.

14 (END)