

Disability Rights Wisconsin's Voting Rights Reference Guide

February 2007

MADISON OFFICE

16 North Carroll Street
Suite 400
Madison, WI 53703

608 267-0214
888 758-6049 TTY
608 267-0368 FAX
800 928-8778 *consumers & family only*
disabilityrightswi.org

Protection and advocacy for people with disabilities.

Acknowledgements

The *Voting Rights Reference Guide* was developed as a resource to assist the disability community in understanding voting related rights and responsibilities. Portions of this guide were originally created by Anne Medeiros and Steve Verriden, who worked through Community Alliance of Providers of Wisconsin (CAPOW) under a contract with Disability Rights Wisconsin (then the Wisconsin Coalition for Advocacy) during the summer and fall of 2004.

The information was modified and expanded into a formal guide in 2006. Our sincere gratitude extends to Mei-Ling Anderson who volunteered her time to help research and write the guide. Without her time, energy, and persistence, the guide would not have been developed.

We would also like to thank Dan Rossmiller of the Wisconsin State Elections Board for his helpful suggestions and to Howard Seifert of the Wisconsin Council on Developmental Disabilities (WCDD), and Melissa Mulliken all who influenced the development of this guide.

Disclaimer

This *Guide* is written to provide a basic understanding of the voting laws in Wisconsin affecting individuals with disabilities. The laws upon which the *Guide* is based are more complex than the general descriptions provided in the *Guide*. Although the Guide uses some legal citations, it is written for non-lawyers. It is not specific legal advice, nor is it a comprehensive review of all aspects of state and federal voting laws affecting people with disabilities. Laws change and develop over time, so we have provided you with information about useful resource contacts. If you want more information, we suggest that you contact the resources we have provided, or that you consult with an attorney.

Copying Policy

This Guide does not have a copyright. Reproduction of any part of this Guide is permitted and encouraged to disseminate this information to as many people as possible. Whenever copies are made please reference Disability Rights Wisconsin and credit the Help America Vote Grant.

This project was supported by Grant No. G-0403WIVOTP, CFDA No. 93.618 awarded by United States Department of Health and Human Services, Administration for Children and Families. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Health and Human Services.

Table of Contents

Introduction	pg. 3
National Voting Laws	pg. 4
Help America Vote Act of 2002 (HAVA)	pg. 5
Voter Eligibility and Rights	pg. 7
Voter Registration	pg. 11
Acceptable Forms for Proof of Residence	pg. 15
Provisional Ballots	pg. 17
Absentee Ballots	pg. 19
Competency, Guardianship and Voting in Wisconsin	pg. 24
Responsibility of Inpatient Treatment Facilities	pg. 27
Challenging your Right to Vote	pg. 28
Filing a Complaint	pg. 30

Introduction

This voting information was gathered to be a reference for DRW staff, people with disabilities, advocates, providers, family members and others who have questions about the voting process in Wisconsin. The information focuses on the rules and regulations that impact the individual voter.

Voting is the cornerstone of our democracy, and people with disabilities who are qualified to vote should have the right to participate equally in the process. Unfortunately, people with disabilities still face barriers to the polls including difficulty finding transportation to and from the polls, lack of physical access to the polling site, disconnect from society because of illness, lack of knowledge about the voting process, and not being able to cast a private and independent ballot. In fact, these barriers contribute to the fact that people with disabilities vote at a lower rate than those who do not have a disability.

This information should not lead us to despair! Laws, such as the Help America Vote Act of 2002 (HAVA) are paving the way to increased accessibility for voters with disabilities, voters are turning out to the polls in record numbers, and the disability community is more determined than ever to have their voices heard.

Because knowledge can be a barrier, this guide is an in-depth look at the rules and regulations that will most likely impact people with disabilities in our state.

A general voting guide for people with disabilities entitled "Voting in Wisconsin A guide for citizens with disabilities" was recently revised and can be found at:

<http://www.adawipartnership.org/Voting/votingguide06.pdf> OR
<http://www.adawipartnership.org/Voting/VotingGuide.htm>

The time is now to make your voice heard. Remember to VOTE!

National Voting Laws that impact people with disabilities

The Voting Rights Act was adopted initially in 1965 and extended in 1970, 1975, and 1982. It is generally considered the most successful piece of civil rights legislation ever adopted by the United States Congress. The Voting Rights Act reinforces the 15th Amendment which asserts that no person shall be denied the right to vote because of their race or color.

A 1982 amendment to the Voting Rights Act allows any voter who has a disability or who cannot read or write to have anyone but their employer or union representative assist them at the polls.

The Voting Accessibility for the Elderly and Handicapped Act of 1984 requires polling places across the United States to be physically accessible to people with disabilities for federal elections. Or, if no accessible location is available to serve as a polling place, a municipality must provide an alternate means of casting a ballot on the day of the election.

Title II of the Americans with Disabilities Act of 1990 (ADA) makes it illegal for state and local governments to discriminate on the basis of disability in their programs, services and activities. Specifically, the ADA entitles people with disabilities to reasonable accommodations necessary for them to be able to participate in governmental programs and services, including voter registration and casting a ballot.

National Voter Registration Act of 1993 (The “Motor Voter Act”)

Wisconsin is exempt from this law because we have same-day registration. In the states where the law does apply, the Motor Voter Act makes it possible for individuals to register to vote at the same time as they apply for a new or renewed driver’s license. Also, any state-funded program that provides public assistance or services to individuals with disabilities must assist them with voter registration. Service providers in Wisconsin are not required to provide registration materials to their participants, but can voluntarily assist individuals with disabilities with non-partisan registration and transportation to the polls.

The Help America Vote Act of 2002 (HAVA) and the HAVA Wisconsin State Plan

In 2002, the federal government passed the Help America Vote Act (HAVA) to renovate parts of the voting process. This law gives money to states in part to increase the accessibility of elections. States are required to use HAVA funds to create a single statewide list of registered voters, to train poll workers, and to establish an accessible voting process.

The Act and Wisconsin State Plan address and implement fundamental improvements in:

Polling Site Access:

Each polling place was evaluated by each municipality to identify their barriers to accessibility and full voter participation. HAVA gives money to each state to improve the accessibility of its polling sites.

Each site must have at least one voting machine that is accessible to individuals with disabilities, including those who are blind or visually impaired. The deadline for accessible voting machine compliance was originally January 1, 2006, however, in Wisconsin it was extended to September 2006.

Casting a Ballot:

Voters must be able to mark and verify their ballots in a private and independent manner. Voters have the right to change their answers before their ballots are cast and counted. In Wisconsin, if a voter makes a mistake, they can get a replacement ballot. A person may receive up to two replacement ballots.

Voter Education:

Disability Rights Wisconsin (DRW), and other protection and advocacy organizations around the country receive money to educate voters with disabilities about their voting rights, the voting process, and how to use accessible voting equipment.

Voter education materials for persons with disabilities are also available on the State Elections Board Website at:

<http://elections.state.wi.us/section.asp?linkid=270&locid=47>

Polling Site Information:

Each polling site must have the following information posted on election day:

- A sample ballot;
- Instructions on how to cast a vote;
- Instructions for mail-in registrants and first-time voters;
- Information on voting rights and how to contact the appropriate officials if these rights have been violated; and
- Information prohibiting election fraud and misrepresentation.

Poll Worker Education:

States must develop training programs for poll workers and other election officials to ensure uniform and nondiscriminatory treatment of voters. Many states, including Wisconsin, are currently training election workers on disability awareness, sensitivity, and accessibility issues.

Centralized Computer Registration System:

HAVA requires each state to create a single database containing the name and registration information of every legally registered voter in that state. This will allow a local election official to obtain immediate electronic access to any voter's current registration information. In addition, this system will assign a unique identification number to each registered voter. The aim of mandating a single database for registration information is to clarify any confusion regarding who is and who is not registered in each district, making the overall voting process run more efficiently.

A copy of the Wisconsin State Plan can be found at:

<http://elections.state.wi.us/docview.asp?docid=2049&locid=47>

Voter Eligibility and Rights

Generally, you are eligible to vote in Wisconsin if:

- You are a citizen of the United States;
- You have lived in Wisconsin and in the election district at least ten days prior to the election;
- You are 18 years or older on the day you vote;
- Your right to vote has not been taken away because either you are a convicted felon and your voting rights have not been restored, or if the court has specifically removed that right.

If you are an eligible voter, you:

- Can **vote by absentee ballot** if you make a written request for the ballot in advance.
- Should be **treated with respect** at a polling location.
- Can request **accessible voting instructions and registration materials**.
- Have the right to vote at a **physically accessible polling place**.
- Can **vote curbside at your request**.
- Can **ask for accommodations** if you need them.
- Can **ask for assistance** in marking a ballot or completing a registration application.
- Can **file a complaint** if you feel your rights have been violated.

Additional Rights:

(This section was modified from the "Wisconsin Guide to Voter Assistance and Advocacy: From Registration to a Ballot that Counts, Legal Manual for Protecting Voter Rights 2004" (2004) created by the People for the American Way Foundation and the Lawyers' Committee for Civil Rights Under Law. The guide can be located online at: http://www.naacpldf.org/content/pdf/pubs/manuals_2004/Wisconsin_Legal_Manual.pdf)

- If your name is on the list of registered voters **you have the right to vote without providing proof of your identity or residence.**
[§§6.47(2)-(3), 6.79(2)]
- **You have the right to register on election day at your polling place** if you can show proof of residency in the election district for more than 10 days, or if another qualified elector who resides in your

municipality will verify (or “corroborate”) your eligibility. [§ 6.02(2); 6.10(3); 6.40(1); 6.55(2)(a)]

- If you have not registered to vote, or if you did register but your name is not on the registration list, **you have the right to vote at your district’s polling location** after (i) signing a registration form and (ii) providing written proof of your residence or having another voter confirm your residence. [§§ 6.29(2)(a), 6.54, 6.55(2)(a)-(c), and 6.55(3)]
- If you cannot read, if you have difficulty understanding English, or if you are blind or otherwise physically disabled, **you have the right to receive help when voting** from anyone except your employer or agent of your employer, or an officer or agent of your union. [§ 6.82(2)]
- All polling places must be physically accessible to you; however, state statutes still allow the option to vote curbside. **If you are unable to enter a polling place as a result of a disability, you must be allowed to vote outside the polling place. Two election officials must take a ballot out to you.** After you mark the ballot, it will be taken back into the polling place where an election official will announce that you cast it at the door. If there is no objection, the ballot will be placed in the ballot box. [§6.82(1)]
- If you do not provide the clerk with proper identification when registering to vote by mail, and if you go to the polls without proper identification, **you have the right to vote by provisional ballot.** [§ 6.97]
- **You may bring an unofficial sample ballot** into the polling place. [§6.80(2)(a)]
- **You may request a paper ballot** if you cannot use the voting machine due to your physical disability. [§6.82(3)]

- If you make a mistake or “spoil” your ballot, **you have the right to request a replacement ballot** from the election officials. You may receive up to 2 replacement ballots. [§6.80(2)(c)]

(Note: If a voter is experiencing difficulty in marking the ballot, the voter may request assistance from any individual who is not his or her employer or an agent of the employer, or an officer or agent of his or her union. [§ 6.82(2)].)

- If you have been convicted of a felony, treason, or bribery, **you have the right to vote when you have completed your sentencing, probation and parole.** Your right to vote can also be restored through a pardon. [§§6.03(1) (b) and 304.078 (3)]
NOTE: If you have been convicted of a felony, have completed your sentence, and wish to have your voting rights restored, contact the Department of Corrections to complete form DOC-48A (rev. 3/97)
- When you are within 100 feet of the entrance to a building containing a polling place, **you have the right to wait in line to vote without a political candidate or anyone from a political party or group supporting a referendum trying to influence your vote.** [§§12.03 and 6.82(4)]
- If you are eligible to vote in a ward or district, but do not have documented proof of your residence, **you can have someone who is eligible to vote in your municipality corroborate your residency.** The corroborator does not need to be a registered voter. They must provide proof that they reside in the same municipality as you, and must sign a statement that says you live at the address in question. [§6.55(2)(b)]
NOTE: You are not allowed to have someone corroborate your residency if you are registering to vote for the first time and you registered to vote by mail.

Persons working to facilitate voting for qualified homeless individuals who

need proof of residency may complete a form on agency letterhead to satisfy residency requirements for homeless voters. The form can be viewed at: <http://elections.state.wi.us/docview.asp?docid=2472>

If you are a person with a disability and feel that your voting rights have been violated, you may contact Disability Rights Wisconsin's (DRW) Voting Rights Line at 1-800-928-8778 (voice) or 1-888-758-6049 (TTY). You may call this number if you have any questions about your voting rights or the voting process.

Voter Registration

Under what circumstances must I register or re-register to vote?

You need to register if you have never voted before or if you have moved or changed your name since you last registered. HAVA requires all voters to register starting January 1, 2006, regardless of the size of their municipality¹.

There are 3 ways you can register to vote.

1) You can register to vote **at your polling place**. If you are an eligible voter, our state law lets you register on the same day as you vote. You must bring identification that contains your current address or another form that proves you have lived in your voting district for at least 10 days before the election. (See Acceptable Forms for Proof of Residence)

2) You also have the option to register **by mail**. To obtain an application for Voter Registration, you can either call your clerk and they will mail you a copy, or you can download form EB131 at <http://elections.state.wi.us/>. Mail the application into your municipal clerk's office by 5:00 p.m. by the 3rd Wednesday before the election.

If you are voting for the first time in your state and are registering by mail, you must send a copy of a document that proves where you live (called a "proof of residence"). A copy of one of the following forms is acceptable: a current and valid photo ID; a current utility bill; a bank statement; a government check or paycheck; or any government document that shows your name and address.

You must also present this identifying document that establishes proof of residence at the polling place when you vote. If you forget to bring an acceptable document that establishes proof of residence to the polls, you will have the option to cast a provisional ballot (see section on provisional ballots) (§ 6.97).

¹ The 2 exceptions to this are 1) if you are a military elector [§ 6.22(3), and 2) if you are a new and /or former resident who is voting only for president and vice president [§§ 6.15 and 6.18].

If you are registering to vote by mail and are indefinitely confined, you do not have to mail in a copy of your ID [HAVA 303 (b)(3)(C)(ii)].

3) You may register to vote in person **at the municipal clerk's office** up until 5:00 p.m. the day before the primary or general election. If you have not previously registered in the municipality and you are registering less than 20 days before the election you must provide proof of residence or have someone corroborate your residence. (See Acceptable Forms for Proof of Residence.)

Why does the registration form ask for my driver's license number? What if I don't have one?

If you are required to register, your registration application will ask for an identification number. HAVA requires each state to have a unique number on file for every registered voter.

- If you have a current and valid driver's license, you are required to list your license **number** on the registration form.
- If you do not have a driver's license, but have a Wisconsin-issued ID card then you can use the number on your Wisconsin-issued ID card.
- If you do not have a driver's license or a state issued ID card, you can use the last 4 digits of your Social Security Number.
- If you do not have a driver's license, ID card, or a Social Security number, then you will be assigned a unique number so that you can register to vote. You will not need to remember this number or present it in the future.

When do I need to present “proof of residence”?

Generally, you must present an document that establishes proof of residence when you register to vote². If you are registering for the first time in your municipality, either at the office of your municipal clerk within 20 days before the election or at your polling place on election day, you need to provide proof of residence. [§§6.29 (2)(a) and 6.55 (2)(a)] You must also provide proof of residence if you have moved within the municipality and are re-registering. [§6.40(1)(a)] (See Acceptable Forms for Proof of Residence).

If you are a first-time voter in Wisconsin and you registered by mail without providing a copy of your proof of residence, and you forget to bring your proof of residence to the polling place on election day, you may cast a *provisional ballot*. [§6.97(1)] (NOTE: You **may not** use a corroborator.) Your vote will not be counted unless you provide proof of residence to the municipal clerk by not later than 4:00 p.m. on the day following the election. See the section on Provisional Ballots for more information.

Am I eligible to vote if I have been convicted of a felony?

If you have been convicted of a felony, treason or bribery, you may not vote *unless* you have completed your sentencing, including any period of probation, parole and/or extended supervision, or you have been pardoned from your crime. [§6.03(1)(b)]

The Department of Corrections (DOC) is required to notify the State Elections Board of all current felons, and when they expect the person to have completed their sentence, probation and parole. This information will be entered into a statewide computerized voter registration database and referenced by clerks and poll workers across the state.

² The only exception to the requirement that you provide proof of residence is as follows: If you are registering in person in the office of the municipal clerk (or through a special registration deputy deputized by the clerk) prior to the 3rd Wednesday before the election.

When you are released from prison to parole or extended supervision or if you are sentenced to probation for a felony conviction, you will be notified in writing that your right to vote has not been restored, and you are ineligible to vote. You and a witness will be required to sign a document stating that you understand that you are not eligible to vote. [§§ 302.117, 973.09(4m) and 303.03(3a)]

If you have completed your sentencing, probation, and parole or extended supervision, and you wish to have your voting rights restored, contact the Department of Corrections to get the form DOC-48A (rev. 3/97) and bring it with you to the polls.

In order to vote, you must specifically state on your registration form that you are eligible to vote and that you are not currently completing sentencing, probation, parole or extended supervision for a felony, or that you have been pardoned from all felony convictions. [§6.33(1)]

[See §§ 6.03(1)(b); 6.33(1); 301.03(20); 302.117; and 304.078(3)]

For a listing of Wisconsin municipal clerks go to:

<http://elections.state.wi.us/docview.asp?docid=10506&locid=47>

Acceptable Forms for Proof of Residence

You must bring a form of identification that proves where you live (proof of residence) if you are registering to vote for the first time, or if you moved since you last voted and you are appearing in person at the office of the municipal clerk or registering at your polling place³. If you have not lived in your voting area (or ward) for more than 10 days, then you must vote at the polling place in your old ward or vote by absentee ballot through your old ward.

An acceptable proof of residence must include:

1. Your current and complete name; and
2. Your current and complete residential address.

The following is a list of some acceptable forms to prove residency:

- A Wisconsin motor vehicle operator's license.
- A Wisconsin identification card.
- Any other official identification card or license issued by a Wisconsin governmental body or unit.
- An identification card bearing your photograph issued by an employer in the normal course of business, but not including a business card.
- A real estate tax bill or receipt for the current year or the year preceding the date of the election.
- A residential lease that is effective for the period that includes the election day, unless you registered to vote by mail.
- An airplane pilot's license.
- A gas, electric or telephone service statement for the period commencing not earlier than 90 days before election day.
- A bank statement.
- A paycheck.
- A check or other document issued by a unit of government.

³ When registering to vote by mail, different documents qualify as proof of residence. To see which documents can be used to prove your residence when registering to vote by mail, see the Voter Registration section.

Notes:

A piece of mail addressed to the voter is not acceptable proof of residence.

Your driver's license or ID card, or other documents with an expiration date must be valid on Election Day.

Corroboration

Another way that you can prove your residency is through "corroboration." This means that another voter can serve as your proof of residence when you do not have the acceptable documentation to do so. The other elector (the corroborator) must reside in your election district. They must sign a statement as proof that you have lived in their district and at the address for at least 10 days. They will have to show an acceptable proof of their residence to the clerk of poll worker, depending on where you are registering.

Provisional Ballots

A provisional ballot is unique from any other ballot because, while you may fill it out on election day, it will not count until you confirm your eligibility. It is your responsibility to provide proper identification or proof of residence to the municipal clerk by 4 p.m. the day after the election. [§§6.97 (2) and (3)]

There are only two reasons that you would be required to vote by provisional ballot instead of a standard ballot.

1) If you registered for the first time in Wisconsin by mail without sending in a copy of a document that establishes proof of residence, you need to bring “proof of residence” to the polling site on Election Day. If you fail to bring proof of residence to the polling place, you will be allowed to cast a provisional ballot.

OR

2) If you register to vote on Election Day, and you have been issued a driver’s license, you are required to provide your driver’s license **number** on your registration form. If you have driver’s license and fail to list it on the registration application form, you will not be allowed to vote a regular ballot, but instead will be given a provisional ballot.

If you can not provide a driver’s license number because you do not have a current, valid Wisconsin driver’s license, you will be allowed to vote a regular ballot if you provide either the last four digits of your social security number or the number from a current, valid Wisconsin Department of Transportation- issued ID card, if you have one.

If you do not have a social security number or a Wisconsin Department of Transportation issued ID card, a unique identifying number will be assigned to you and you will be allowed to vote a regular ballot.

Again, if you are given a provisional ballot, your votes will NOT be counted unless you call, fax, email or return in-person to the municipal clerk’s office by 4:00 p.m. on the day after the election the proper information.

You will not be given a provisional ballot if you are at the wrong polling place, or if you try to register at the polling place without any proof of residence. If you go to the wrong polling place or do not have proof of residence, the poll worker should tell you where your correct polling place is or what information you will need to return with in order to register to vote.

When you cast a provisional ballot, you will receive information that shows you how to verify that your ballot was counted or, if applicable, why it was not counted. [§6.97 (1)]

Absentee Ballots

Many people find that casting an absentee ballot is the most convenient way to vote because they can vote before election day and vote without leaving their homes. Any eligible voter has the option of voting by absentee ballot, regardless of circumstances.

Registration Tips:

- You must make a written application in order to receive an absentee ballot.
- You must be registered to vote before you can receive an absentee ballot.
- You can register AND request an absentee ballot at the same time by mail or at the clerk's office.
- If you have moved within ten days before the election you can vote by absentee ballot from your previous district without re-registering.
- If you are voting for the first time and have registered by mail, include proper proof of residence with your ballot.

There are two ways to cast your absentee ballot:

1. At the municipal clerk's office before election day.
2. By mail.

What can I expect if I vote by absentee at the clerk's office?

You may vote an absentee ballot by going to your municipal clerk's office anytime before 5:00 p.m. on the day before the election. The clerk will give you an absentee ballot to mark and cast. If you have not already registered, you will be able to fill out a registration application at the clerk's office.

How do I apply for an absentee ballot by mail?*

You must request an absentee ballot from your municipal clerk in writing.

- 1) To download the application form to receive an absentee ballot (EB 121), go to the State Elections Board website:

<http://elections.state.wi.us>. Send the completed application to your municipal clerk's office, OR call your municipal clerk to have them send you the application form in the mail.

OR

2) Write a letter to your clerk requesting an absentee ballot. Include your full name, your legal voting address, your request for an absentee ballot, the address where the ballot should be sent, and your signature.

Remember: You must be a registered voter to receive an absentee ballot. If you are not registered you should ask for a registration form with you application for the absentee ballot.

Where should I mail my completed request for an absentee ballot?

Mail the completed application to your municipal clerk. The clerk must receive your application no later than 5 p.m. on the 5th day immediately preceding the election (unless you are indefinitely confined or you are a military elector—in these cases, you have until 5 p.m. on the Friday before the election). This allows enough time for the clerk to mail you the ballot and for you to send the completed ballot back to the clerk by election day.

How will the clerk know that someone else didn't mark my ballot?

You must mark your ballot and ballot certification in the presence of a witness, but you do not need to show the witness how you voted. Both you and the witness need to sign a statement that guarantees that your witness is not a candidate for office and did not influence your vote in any way.

How do I return the ballot?

The clerk will send you a set of instructions for returning the ballot. Make sure you read the directions carefully and that you have properly sign your ballot and sealed your envelope. If you do not follow the instructions, your ballot may not be counted. If you make a mistake and there is enough time, the clerk should return the ballot to you so that you can correct it and return it before election day.

What are the deadlines for casting an absentee ballot?

The municipal clerk must receive your completed ballot in the mail no later than the day of the election so that the polls may count it before 8 pm.

What if I have problems marking the ballot on my own?

If you cannot mark your ballot due to a disability or language barrier, you may choose a person to assist you as long as he or she is not your employer or union representative.

Can I receive an absentee ballot for every election without re-requesting one each time?

You may apply to receive an absentee ballot by mail for every election if you are “indefinitely confined because of age, physical illness, infirmity, or disability.” This request must be in writing.

If you are no longer confined after having been granted permanent absentee status, you must notify the clerk. If you fail to return an absentee ballot after having requested that you receive one for every election, your municipal clerk will not continue to send them and you will need to make the request again.

If you are not indefinitely confined because of age, physical illness, infirmity or disability, you can request that an absentee ballot be sent to you automatically for every election that is held in the same calendar year in which the application is made. [§6.86(2m)]

How does absentee voting change for me if I am a resident of a retirement home, a nursing home, or a community-based residential facility?

If you are a qualified elector who lives in a treatment facility and you are unable to vote at the polls, you can apply for an absentee ballot. Your care facility should have the application to request an absentee

ballot for you to fill out. Let them know if you need help registering to vote or applying for an absentee ballot.

If you apply for an absentee ballot, the municipal clerk will send 2 special deputies to bring an absentee ballot to where you live. The municipal clerk is required to post a notice at your residence that states the time and date when the special deputies will visit to facilitate voting. You must be able to view this notice at least 24 hours in advance of the deputies' arrival. [§6.875 (6)]

Remember: you do not need to show anyone how you voted, but you may ask the deputy to assist you in marking the ballot. If you would like a relative to assist you, make sure you tell someone at your facility as soon as possible to tell you when the deputies are scheduled to come to the facility with your absentee ballot. No one besides the voting deputy or your relative is allowed to help you complete your ballot. [§6.875 (6)(c)1.]

Both of the deputies must sign the absentee ballot envelope that your ballot goes into so that the clerk knows your ballot is valid. [§6.875 (6)(c)1.]

The deputy must deliver the ballot to your municipal clerk no later than noon on the day of the election. [§6.875 (6)(d)] If you were unable to cast an absentee ballot on two separate visits by the deputies, please inform the clerk so that they can come again or so you can receive a ballot through the mail. [§6.875 (6)(e)]

To find out more information see "Absentee Voting in Nursing Homes, Qualified Retirement Homes and Community-Based Residential Facilities (CBRF's)" published by the Wisconsin State Election Board at <http://elections.state.wi.us/docview.asp?docid=5780&locid=47>

How can I receive an absentee ballot if I am hospitalized?

If you are registered to vote, you may choose someone you know (called an agent) to pick up an absentee ballot from your municipal

clerk before 5 p.m. on election day. The agent must live in the same city as you and must show a valid ID when they pick up your ballot. The absentee ballot application form has a special section for you, as a hospitalized a voter, to grant permission to the person you name to pick up the absentee ballot for you. You must sign the application for an absentee ballot unless you are physically unable to do so. In this case you may authorize another elector to sign on your behalf.

If you are a hospitalized voter and not yet registered to vote, you can register through your agent at the same time they request an absentee ballot. To do so, you must fill out a voter registration application form in addition to the absentee ballot application. You must have the agent bring with them valid proof of your residence or have another elector who resides in your municipality corroborate your residence. If you use a corroborator, your agent must provide proof of the corroborating elector's residence. (§ 6.86(3)) You cannot make your registration application more than 7 days before an election and not later than 5:00 p.m. on election day.

If you a hospitalized elector and are voting before election day, you or your agent must return the ballot to municipal clerk by mail or by personal delivery. If you are a hospitalized elector and are voting on election day, your agent must return the ballot to your polling place by no later than 8:00 p.m. on election day.

*You also have the option of requesting your ballot by fax or e-mail, but the procedure is more complicated. You can fax an application that you have downloaded and completed to your clerk. You must sign this request. In addition to faxing this request to the clerk, you must mail the original copy of the request to the clerk. The original must be postmarked on the same days as the fax is received. Once the municipal clerk determines you are qualified to receive an absentee ballot, the clerk may fax or e-mail the ballot to you.

The State Elections Board website is <http://elections.state.wi.us>
For a listing of Wisconsin Municipal Clerks go to:

<http://elections.state.wi.us/docview.asp?docid=10506&locid=47>
(The Municipal Clerk listing is in alphabetical order by County)

Competency, Guardianship, and Voting in Wisconsin

In Wisconsin, anyone over age 18 is legally an adult and is presumed by law to be able to manage all personal and financial affairs, including the ability to register to vote and to vote. However, an adult may have their right to vote taken away by a court of law under Chapter 880 of the Wisconsin Statutes⁴.

There are two ways a person may lose their right to vote due to competency reasons:

- 1) Under the **guardianship process**, an adult may be found by a court of law to be “incompetent.”
 - Once a person is found incompetent, the court will appoint a guardian of the estate and/or of the person.
 - As a part of this process a person may be found “incapable of understanding the objective of the elective process” and their right to vote may be taken away. (§880.33⁵)
 - A person who is under full guardianship has a guardian of estate and of the person, and their right to vote has been taken away.
 - If a judge feels an individual is competent to make certain decisions, she or he may be placed under a limited guardianship. The judge will determine if the person should retain their right to vote, marry, obtain a drivers license, hold property, or sign a contract. **Therefore, under a limited guardianship, a person may retain their right to vote.**
 - An individual may request that their guardianship be reviewed and that their right to vote be restored (see below).

- 2) A person may also lose their right to vote through a **petition to the circuit court** that has been instituted for the sole purpose of finding the person “incapable of understanding the objective of the electoral process.” This petition can be brought by any other voter who lives in the individual’s same municipality. In this case, a

⁴ Starting January 1, 2007, Chapter 880 will be replaced by Chapter 54 as directed by 2005 Wis. Act 387.

⁵ After January 1, 2007, see new §54.25 (2)(c)1.g., created by 2005 Wis. Act 387

person may lose their right to vote even though they have not been found to be incompetent through the guardianship process. Therefore, this individual would not have been appointed a guardian but could potentially lose their right to vote. (§§ 880.07(3)⁶ and 6.03(3)).

Protective Placement

- Individuals who are found incompetent and in need of a guardian may also be ordered by a court to be protectively placed to the county human services agency. The county, in turn, would find the appropriate placement and/or services for the individual. (Ch. 55 of State of Wisconsin statutes)
- Because a protective placement is a loss of personal freedom, the courts must review every placement every year. This is called a Watts hearing. During the annual Watts hearing a person's right to vote could be restored, if applicable. Since this annual hearing reviews an individual's guardianship status, a person may request that their right to vote also be reviewed at that time.

Power of Attorney

Individuals who have an activated Power of Attorney for Health Care still have the right to vote as long as that right has not been taken away through a guardianship or an incompetence proceeding. A Power of Attorney can request an absentee ballot for an individual.

Nobody has the right to vote instead of you or to tell you how you should vote--not even your guardian.

How can I find out if I have the right to vote?

If you are under a guardianship, you can find out whether or not you have the right to vote from your Determination and Order Form. You may ask your guardian or the Office of the Register in Probate

⁶ After January 1, 2007, see also §54.25(2)(c)(1)(g) created by 2005 Wis. Act 387.

(Probate Court) for a copy of your Determination and Order form. Each copy costs approximately \$2.

You can also ask your attorney, or another person who has a signed release from you or your guardian, to request a copy of the Determination and Order Form.

You or another person requesting a copy of the Determination and Order Form should do so in the Probate Court where you receive services, or in the county that is paying for your services. If neither county has the form, try contacting the county in which your guardian resides.

For more information, see Chapter 55, Chapter 6 (§ 6.03), and Chapter 880 of the Wisconsin Statutes. [Note: Effective January 1, 2007, Chapter 880 of the Wisconsin Statutes is repealed and replaced by Chapter 54 of the Wisconsin Statutes.]

Responsibility of Inpatient Treatment Facilities

All inpatient treatment facilities* including county and state-run institutions, must ensure that inpatients have an opportunity to vote unless the patient's right to vote has been taken away by a court of law.

The treatment facility must:

- 1) survey all patients 18 years or older to see if they are interested in registering to vote and/or vote. The survey must be completed in time to allow the voter enough time to register and/or obtain an absentee ballot before the election;
- 2) make arrangements with state and local officials to register voters and help the voter to cast ballot at the facility; and
- 3) assist election officials in determining the voter's place of residence, so that the voter gets an absentee ballot from their municipality of residence. The inpatient treatment facility must have the permission of the voter (informed consent) before contacting the municipal clerk.

The treatment facility is not allowed to prohibit a resident from receiving campaign information or placing political advertisements in her/his personal living space. The treatment facility must also allow candidates to campaign during reasonable times and locations at the treatment facility.

For more information see Wisconsin Administrative Code Chapter HFS 94.22

* In this instance, a treatment facility is any public or private facility or unit in a facility or agency that provides inpatient treatment or rehabilitation for alcohol/drug dependency, mental illness or developmental disability.

Challenging Your Right to Vote

What is a challenged ballot?

A challenged ballot is used when an individual's eligibility to vote is in question. A person whose vote has been challenged will vote on a different ballot and his/her eligibility to vote will be reviewed after the election.

Who can challenge my right to vote?

A polling place official or another voter may challenge your right to vote when they believe that you do not have the right to vote. However, your right to vote may be challenged only for very specific reasons.

Under what circumstances can my vote be challenged?

In Wisconsin, your vote may only be challenged by another elector on the grounds that:

- You are not a United States' citizen.
- You are not at least 18 years of age.
- You have not resided in the ward or election district from which you seek to vote for at least the 10 days before this election.
- You are currently disqualified from voting for any of the following reasons:
 - A felony conviction for which you are still serving probation or are on parole.
 - A judge's ruling that you are incapable of voting.
 - Having made a bet or wager on this election.
 - Having voted previously in this election.

What will the person who is challenging my vote have to do?

The poll worker will ask the person who challenges to explain, under oath, why they believe that you are not qualified to vote.

The person who challenges you must have a good reason to believe that you are not eligible to vote. The person who challenges you must

also be an eligible voter. If an elector challenges your vote without specific knowledge of your legal status, this is discrimination. Anyone who abuses their right to challenge a vote may be subject to sanctions.

What happens to me when another voter challenges my right to vote?

You will be asked to swear under oath that you are an eligible voter. The election official will only make you respond to the questions pertaining to the challenger's specific concerns about your eligibility. If you refuse to take the oath, if you refuse to answer the questions fully, or if you answer that you are not eligible, you will not be allowed to vote.

If you take the oath and answer all the questions to swear that you are an eligible voter, you will be given a ballot. The election official will put an identifying number on the outside of your ballot. You will be able to vote and your vote will be counted.

Your voting eligibility cannot be determined at the polling place. After the election, the municipality will investigate the challenge. If you lose the challenge because you were not eligible to vote, your ballot will be withdrawn and not counted. However, if you win the challenge, your vote will continue to be counted.

If you want to find out the outcome of the challenge, contact your municipal clerk.

Can my vote be challenged if I vote by absentee ballot?

Yes. The guidelines for challenging an absentee voter are the same as challenging a voter in person at the polling place.

Filing a Complaint

If a problem happened while you were trying to vote and you feel you were treated unfairly or discriminated against, you have the right to file a complaint. Most people are able to resolve their complaints informally.

You may want to follow the steps below to try and resolve your concern.

1. Call or write the city clerk's office to let them know about the problem. They may be able to resolve your concern right away. This website lists Wisconsin's municipal clerks:
<http://elections.state.wi.us/docview.asp?docid=10506&locid=47>
2. Contact other employees who work for your city, town or village to see if they can help you.
3. If you still have problems, you can call the State Elections Board at (608)266-8005 or toll free at 866-VOTEWIS (868-3947) or write to them at:
Wisconsin State Elections Board, Suite 310
17 West Main Street, P.O. Box 2973
Madison, WI 53701-2973
4. If your complaint is still not resolved, you can file a **formal** complaint with the State Elections Board. Their website contains a complete guide for filing a formal complaint: <http://elections.state.wi.us/>
5. If the State Election Board is unable to resolve the formal complaint to your satisfaction, you may have the option of filing a complaint under certain laws such as the Americans with Disabilities Act (ADA), if they apply to your situation.

Disability Rights Wisconsin (DRW) may be able to assist you in resolving your complaint if it is related to your disability. To reach DRW's Voting Rights Line, call 800/928-8778 (voice) or 888/758-6049 (TTY).