



The #2020Census counts:

Be counted!

1-844-DIS-VOTE
www.disabilityvote.org

**Wisconsin Disability Vote Coalition
Informational Testimony for Joint Committee Hearing:
2020 General Election Review
December 11, 2020
Barbara Beckert, Disability Rights Wisconsin**

This informational testimony is being shared with Committee members as a resource to provide information about the voting experience of many Wisconsinites who have a disability and older adults. Thank you for your consideration. We thank you for your past support to protect the voting rights of voters with disabilities, including unanimous passage of 2019 Wisconsin Act 48, and ask for your continued support for the rights and accommodations that are essential to preserving participation of Wisconsinites with disabilities in the electoral process.

About the Wisconsin Disability Vote Coalition

The Wisconsin Disability Vote Coalition 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. Members include people with disabilities, and representatives of community agencies including Access to Independence, Wisconsin Council of the Blind and Visually Impaired, NAMI Wisconsin, People First Wisconsin, Mental Health America of Wisconsin, Wisconsin Association of the Deaf, Disability Rights Wisconsin, GWAAR, the Arc Wisconsin, IndependenceFirst and many others. The Coalition is coordinated by Disability Rights Wisconsin and Wisconsin Board for People with Developmental Disabilities.

Disability Rights Wisconsin (DRW) provide 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 with support from the Help America Vote Act (HAVA). This includes staffing the Disability Rights Wisconsin Voter Hotline which is open year round.

disabilityrights | WISCONSIN



*The Wisconsin Disability Vote Coalition is a project of
Wisconsin Board for People with Developmental Disabilities and Disability Rights Wisconsin*

Voters with Disabilities

A significant number of Wisconsin voters have a disability. To get sense of the scope of the disability vote, the CDC indicates that 26% (1 in 4) of adults have some type of disability. According to the American Association of People with Disabilities (AAPD), approximately 23% of the electorate in November election were people with disabilities.

This is a diverse group of voters. It includes people who are blind and low vision, deaf and hard of hearing, with intellectual and developmental disabilities, physical disabilities, mental health disabilities, complex medical needs, and chronic health conditions. Many older adults have disabilities acquired through aging, although they may not formally identify as a person with a disability.

Historically voters with disabilities are underrepresented at the ballot box and many experience barriers to voting including accessibility challenges, lack of transportation, lack of photo ID as so many are nondrivers, and limited information about disability related accommodations and voting rights. This year there were unprecedented challenges because many Wisconsinites with disabilities and older adults are at greater risk for COVID-19. A very high percentage of these voters wanted to vote absentee or vote early to isolate themselves from exposure to COVID 19.

Public Health Challenges

Because of the pandemic, the 2020 General Election posed unprecedented challenges. Election officials had a legal and moral imperative to implement public health guidance, and ensure that voters could safely participate in a manner that did not put their health at risk. The challenges were many but election officials and volunteers worked very hard to ensure the safety of this election and support the right of Wisconsinites to cast a ballot.

We want to thank the Wisconsin Election Commission and municipal clerks for their work to support safe participation of Wisconsinites, including the voting rights of disabled and elderly Wisconsinites. Federal and state law provide many protections that require our elections to be inclusive and accessible for voters with disabilities and older adults, and WEC staff provided valuable education and support to educate election officials and voters about these rights. We also thank the thousands of poll workers and other volunteers, including our coalition members who worked so hard to assist voters.

Voter Rights

Whether disabled and elderly voters voted in person or absentee, it was more important than ever to have access to needed rights and accommodations which are protected by federal and state law. It is essential that these rights be protected moving forward to ensure that disabled and older voters are not disenfranchised.

Some of the most important include the following:

- Under federal law, all polling places for federal elections must be fully accessible to older adults and voters with disabilities. We were pleased to partner with the Wisconsin Election Commission to provide a webinar for clerks that addressed accessibility at the polling place and legally required accommodations.
- Wisconsin law requires that curbside voting must be available at early voting sites and on election day for voters who have difficulty entering their polling place due to disability, Individuals who are immunocompromised or have symptoms of COVID-19 are also eligible to curbside vote.
- Federal law requires that every polling place have an accessible voting machines that allows voters with a disability to vote independently and privately.
- Voters have the right to receive assistance with marking their ballot. A voter may bring someone to assist them or ask a poll worker. Poll workers are required to assist the voter if they request it. A voter cannot receive assistance from your employer or union representative. The person providing assistance must the ballot in the space provided for the assistor and the election worker also records the name of the assistor. There is also space to record the assistor on the absentee ballot and certificate envelope.
- Wisconsinites who are under guardianship retain the right to vote unless the court has expressly removed it.
- If a voter is not able to state their name and address, Wisconsin law allows the voter to have a poll workers or an assistor of their choosing state their name and address on the voters behalf prior to receiving a ballot.
- Other accommodations should be available upon request such as a chair to sit on while waiting in line, signature guide to sign your name, magnifying glass, assistance stating your name/ address, tools to help poll workers communicate with you such as pen/paper or easel for public announcements.

Disability Vote Coalition/ DRW Voter Support

The pandemic and required social distancing and/or isolation eliminated many of the traditional opportunities for our Coalition to provide in person training and assistance with voter registration, requesting photo ID, and education about voter rights and resources. To provide other options for supporting voters, the Disability Vote Coalition developed a number of new videos and fact sheets to help support voters to vote safely during the pandemic. We offered virtual trainings for voters, and the option to mail voting resource materials.

Because so many disabled and older voters were isolated during the pandemic and may not have been able to access online trainings and resources, we prioritized providing trainings to service providers, with a focus on public health, and how to assist consumers with options to safely vote during the pandemic. Trainings also addressed voter rights and accommodations, and the role of service providers – to

assist consumers as requested with their permission and as the voter directs. Service providers were able to access Coalition videos, postcards, fact sheets, and trainings at no charge and to offer these resources to their residents. Trainings reached thousands of service providers. The Coalition also coordinated an online resource "Find a Ride to the Polls" with information about transportation across the state. Although we were able to connect many voters with transportation, others were unable to make it to their polling place due to the lack of transportation, especially wheelchair accessible transportation.

The DRW Voter Hotline assisted a record number of voters this year, the majority needing assistance to participate in the November election, most wanting to vote absentee. We addressed calls from voters, community organizations, family members and service providers. We were able to assist many voters with voter registration, applying for an absentee ballot, questions about the witness requirement, the photo ID and residency documentation, voter rights and accommodations, and transportation.

Absentee Voting

Voters with disabilities and older adults always have a higher utilization of absentee voting. Many are non-drivers with limited access to transportation. In addition, polling place accessibility issues and/ or disability related or health concerns may limit their ability to vote in person. Because of the pandemic, we found that many more disabled and elderly voters wanted to vote absentee in the November election, some for the first time. Although the ability to request an absentee ballot in MyVote is very helpful, many of the voters we assist do not have the access to technology or the technical expertise to complete an online application and upload a photo ID. For those voters, it was important to also have the support to receive an absentee ballot application.

We commend the Wisconsin Election Commission for sending out an absentee ballot application to every registered voter and recommend that this process continue. We were able to assist many disabled and elderly voters with the process of requesting an absentee ballot. Some still struggled with the requirement to provide a copy of a photo ID as they did not have someone to assist them with making a copy and were isolating during the pandemic and not able to go to a retail outlet or public facility to have a copy made.

- Because of isolation and lack of transportation, many voters struggled with the witness requirement. We tried to assist those voters with options to secure a witness and in some cases were able to recruit a community volunteer to serve as a witness. In some cases, we were not able to assist and voters may not have been able to safely secure a witness.
- Voters were also anxious to ensure that their absentee ballot would be received on time and that their vote would be counted. Media coverage about delays in postal service as well short timelines contributed to the challenges. We were

able to provide voters with information about secure absentee drop boxes as an option for returning their absentee ballots. Because of disability and/or lack of transportation, many disabled and elderly voters relied on a neighbor, family or other community members to return their ballots.

- Early in person voting is another form of absentee voting that was vitally important to many disabled and elderly voters. We assisted many voters who had questions about options for voting safely and were worried about heavy turnout on election day. Early voting provided them with an important option to vote safely. Since so many are non-drivers, it also provided more options to schedule a ride.
- We also heard from voters about a barriers to absentee voting for many voters who are blind or have another disability that requires use of assistive technology to read and complete a ballot. Wisconsin does not have an ADA compliant accessible absentee ballot to allow voters who rely on assistive technology to vote privately and independently to cast an absentee ballot. These voters do not have equitable access to absentee voting as addressed by Title II of the ADA. Our Coalition will be reaching out to legislators to ask for your help to address this inequity.

Challenges with access to photo ID

A significant number of disabled and elderly Wisconsinites are nondrivers. Many do not have an acceptable photo ID for voting. While a free photo ID for voting is available at the Wisconsin DMV locations, access to DMV is a problem in the best of times for non-drivers, as locations and hours are limited. If you don't have transportation, it can be very difficult to get to DMV, especially given the limited locations and hours, and challenges for those at high risk for COVID-19. In some rural areas, a DMV location may be an hour away and the service center hours are often limited to a few days a week. Very few locations have Saturday hours – Saturday hours can be important for those who work during the week, as well for those who need to access transportation from family who work during the week. This year, DMV closures due to COVID further added to the challenges for those who needed a photo ID and did not have transportation. We recommend expansion of options for obtaining a photo ID, including expanded hours and locations, Saturday hours, and online options.

Importance of Indefinitely Confined provision

Wisconsin's indefinitely confined statute has been on the books for decades, and provides an important safeguard to ensure many disabled, elderly and physically ill voters can cast a ballot. An Indefinitely confined voter is a person who, because of age, physical illness, infirmity or disability, may have difficulty traveling to the polling place, and wants to cast an absentee ballot. 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.

Absentee voting 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. It is also helpful for voters who may be confined on an interim basis such as recovering from surgery – they may designate as indefinitely confined for a period of time, then notify their clerk when their status changes.

The Indefinitely Confined provision allows these voters the option to satisfy the photo ID requirement through the witness' signature on their absentee ballot certificate envelope. Many older adults and voters with disabilities do not drive and do not have an acceptable photo ID for voting, and because of disability, age, illness or infirmity have difficulty obtaining such ID. The challenges this year were especially daunting as Wisconsin Department of Motor Vehicle (DMV) locations were closed for much of the year, so the ability to obtain a state ID was limited. In some cases, these voters may have an ID, but may not be able to upload it to the My Vote website because of limited access to technology or may not have ability to do so. Because of their vulnerability to COVID, and isolation and social distancing, many did not have a way to provide a copy of photo ID with their absentee ballot application.

Wisconsin's photo ID law includes a substitution for military and overseas voters and indefinitely confined voters; confidential voters are exempt from the requirement. 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. The information we provide to voters is grounded in the guidance from the Wisconsin Election Commission. As indicated by the WEC, "It does not require permanent or total inability to travel outside of the residence."

Because of these significant barriers, Wisconsin provides the option for Indefinitely Confined voters to satisfy the photo ID requirement by the witnesses' signature. The Indefinitely Confined option is vital to preserving this constitutional right for many Wisconsinites who are disabled, elderly, ill or infirm.

Voters in care facilities

Many people with disabilities and older adults live in care facilities including nursing homes, group homes and adult family homes. This includes younger people as well as older adults. Because these congregate settings and their residents were at high risk for COVID 19, voting this year presented many

challenges. Historically, Special Voting Deputies conduct in person absentee voting at many but not all care facilities. Because of the vulnerability of care facility residents to COVID 19, public health guidance advised against use of SVDs.

Given the high risk to residents, our Coalition supported the WEC decision not to dispatch SVDs, but asked that other support be provided to ensure the right of residents to vote and the responsibility of staff to assist them as addressed by the Center for Medicaid and Medicare Services (CMS) in their guidance document [Compliance with Residents' Rights Requirement related to Nursing Home Residents' Right to Vote](#) . CMS notes that "nursing homes are required to support a resident in the exercise of their right (§483.10(b)(2)) to vote, such as assisting with absentee or mail-in voting, or transporting residents to polling locations or ballot drop-boxes in a safe manner." "Nursing homes should have a plan to ensure residents can exercise their right to vote, whether inperson, by mail, absentee, or other authorized process."

Our Coalition offered virtual trainings for care facility staff and other residential providers and over a thousand participated. Our fact sheets, posters, and training videos were also available to assist staff and residents. We also provided assistance to some staff and residents through the DRW Voter Hotline. All trainings stressed that the role of staff is assist residents as requested with their permission; and not to influence their decision in any way. Although it's likely that the absence of Special Voting Deputies limited access for some residents, it's also possible that support from facility staff allowed additional residents to vote. SVDs were only available at a specific time; we have heard concerns that this has limited access for some residents. In addition, some smaller facilities are not visited by SVDs. We would recommend that in future elections, that SVDs be available as well as the option for the resident to request support from facility staff, including offering assistance with voter registration as part of the intake process.

With the increased support and training for facility staff, we are hopeful that more residents were able to make the choice to cast a ballot during the pandemic. We thank and commend the staff for their efforts to support residents in their constitutional right to cast a ballot during this pandemic, at a time when facility and community staff are already stretched very thin and many are short staffed.

Thank you for your consideration and we stand ready to work with you to ensure the accessibility of Wisconsin elections and to preserve the rights of voters with disabilities and older adults.