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**Wisconsin Disability Vote Coalition  
Informational Testimony for Joint Legislative Audit Committee:  
Proposed Audit of Election Administration  
February 11, 2021  
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Thank you for the opportunity to share this informational testimony with the Joint Legislative Audit Committee, as a resource to provide information about the voting experience of many Wisconsinites who have a disability and older adults. We are on the frontline providing assistance to Wisconsinites with disabilities and older adults to support their participation in the electoral process, and can be a resource for your review of election administration.

The audit of election administration provides an opportunity to address the need to ensure 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. The Coalition is coordinated by Disability Rights Wisconsin and Wisconsin Board for People with Developmental Disabilities. Other members include people with disabilities, and representatives of community agencies including People First Wisconsin, Wisconsin Coalition of Independent Living Centers, Access to Independence, Wisconsin Council of the Blind and Visually Impaired, Wisconsin Association of the Deaf, NAMI Wisconsin, GWAAR, the Arc Wisconsin, IndependenceFirst and many others. Our resource materials are available at <https://disabilityvote.org/>

In coordination with the Coalition, Disability Rights Wisconsin (DRW) staffs the Disability Rights Wisconsin Voter Hotline which is open year round. We provide



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

direct assistance to many voters with disabilities and older adults, family members, services providers, and others seeking assistance.

### **Voters with Disabilities**

A significant number of Wisconsin voters have a disability. To get a 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. Many individuals with disabilities and older adults did not feel safe voting in person, and many were isolated at home, because of their high vulnerability to COVID 19. Health data supports this concern. Wisconsinites with disabilities and older adults enrolled in Wisconsin's waiver programs (Family Care and IRIS) comprise 17.5% of the state's total deaths. According to DHS data, 26.2% of cases in the waiver system result in hospitalization and 9.6% result in death, compared to 4.4% and .9% in the general state population, respectively. ([Medicaid Adult Home and Community-Based Services: COVID-19 Data | Wisconsin Department of Health Services](#))

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 WEC staff, clerks, poll

workers, and volunteers worked very hard to ensure the safety of this election and support the right of Wisconsinites to cast a ballot.

### **Wisconsin's Decentralized Voting System**

As noted by the National Conference of State Legislatures, Wisconsin's voting system is a "unique case study in elections administration" because it is highly decentralized. Elections are run by 1,852 jurisdictions at the city, town and village level, rather than on the county level as in most other states. The smallest election jurisdiction in the state has just 45 voters and most have fewer than 1,000. Voters with disabilities experience wide variations at the local level in terms of accessibility, knowledge and enforcement of voting rights and accommodations, and training of election workers. The Wisconsin Election Commission (WEC) has provided helpful guidance and information about accessibility requirements and voter rights, but their authority and capacity to provide oversight and enforcement is limited.

### **VOTER RIGHTS AND ACCOMMODATIONS**

Whether disabled and elderly voters voted in person or absentee, additional challenges created by the pandemic meant that 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. Our Coalition continues to see significant variation around the state in terms of the accessibility and inclusion of voters with disabilities. This testimony highlights some of the areas that could be included in the audit.

**Polling Place Accessibility.** Under federal law, all polling places for federal elections must be fully accessible to older adults and voters with disabilities. While Wisconsin has made progress, in this regard, the decentralized nature of our election administration means there is limited oversight and enforcement of accessibility requirements. To ensure accessibility at the thousands of Wisconsin polling places, there is a need for additional oversight and accountability.

The Wisconsin Election Commission Polling Place Accessibility Audits program is an important safeguard to identify and address accessibility concerns, however, the number of audits has decreased in recent years. When public health conditions permit, we recommend expansion of the Wisconsin Election Commission Polling Place Accessibility Audits program conducted on Election day. This should include increasing the number of audits, providing supplies to correct accessibility issues, and for WEC staff to provide additional oversight and monitoring with municipalities, as well as training for clerks and poll workers on accessibility.

WEC instituted an accessibility supply program during the pandemic that provided municipalities with the option to order signage for disabled parking, curbside voting, cones, and other materials. For example, 306 curbside voting signs were distributed in the August and November elections. This successful program should be continued and expanded.

WEC provided a webinar for clerks that addressed accessibility at the polling place and legally required accommodations. Our Coalition was pleased to have the opportunity to provide suggestions on content and provide some speakers for the webinar. There is a continued need for this training.

**Curbside Voting.** 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. This is a very important accommodation, and became even more important during the pandemic to accommodate individuals who are immunocompromised or have symptoms of COVID-19. During the November and April elections, we heard from voters who were unable to vote because of the lack of curbside voting. The majority of municipalities do not provide information about curbside voting or other accommodations on their websites, and it's likely that the majority do not have signage at the polling place. Given Wisconsin's aging population the need for curbside voting will continue to increase. The audit provides an opportunity to look at how this law can be more uniformly applied.

**Accessible voting machines.** Federal law requires that every polling place have an accessible voting machines that allows voters with a disability to vote independently and privately. Polling places audits as well as voter feedback indicate that many election workers are not familiar with the accessible voting machine and may not offer it as an option to voters. We have reports of accessible machines that are not working, not turned on, or in rare cases not available at all. There is a need for additional oversight of this requirement and training on how to educate voters and poll workers on the option to use accessible voting machines. Our Coalition welcomes the chance to partner in these efforts.

**Accessible Absentee Ballot.** A growing number of states are providing voters with disabilities with the option of a screen reader accessible, Americans with Disabilities Act (ADA) compliant absentee ballot to allow equitable access to absentee voting for voters with blindness, vision, or other disabilities who do not have the ability to physically mark the ballot and rely on assistive technology to vote privately and independently. The ballot is electronically sent to the voter,

who can then complete the ballot using appropriate assistive technology, then electronically and securely submit the ballot to the municipal clerk. During the pandemic, we were contacted by voters with disabilities who were seeking an accessible absentee ballot to allow them to privately and independently cast an absentee ballot. They did not feel safe voting at their polling place, and did not want to have someone else complete their absentee ballot on their behalf. Wisconsin should join other states in providing voters with print disabilities with equitable access to absentee voting.

**Assistance with marking a ballot.** 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 their employer or union representative. The person providing assistance must sign 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. We continue to hear from some voters with disabilities who needed and wanted assistance with marking their ballot and were denied this right.

**Other Disability related Accommodations.** Some voters reported denials of requested accommodations that should be available to them. These may include a chair to sit on while waiting in line, signature guide to sign their name, magnifying glass, assistance stating your name/ address, tools to help poll workers communicate with the voters such as pen/paper or easel for public announcements.

**Poll Worker Training.** Because of the decentralized nature of Wisconsin elections, there is wide variation in the content and amount of training for poll workers. As a result, many poll workers are unfamiliar with the rights of voters with disabilities and the accommodations they are entitled to by law, such as to have an assistor complete their ballot or to use an accessible voting machine. To ensure poll workers understand voting regulations and voter rights, Wisconsin should require new poll workers to complete training on core competencies before serving. This requirement could be met by completing the Wisconsin Election Commission Chief Inspector training, or equivalent training developed by local clerks. The training topics should include voter rights, accessibility, and accommodations for voters with disabilities. In addition, poll workers should be required to attend a minimum of one training program annually thereafter. Completion of training should be tracked by the Wisconsin Election Commission.

**The Right to Vote.** In Wisconsin, the right to vote is guaranteed by our state Constitution. Any person age 18 or older is eligible to vote unless the court has taken away that right. The right to vote may only be taken away by a court, usually in a guardianship proceeding, but only if the court decides that the person is *"incapable of understanding the objective of the elective process."* Wisconsinites who are under guardianship retain the right to vote unless the court has expressly removed it. The right to vote cannot be taken away by a family member, by an election official, or a care provider. Voters with disabilities sometimes have their right to vote challenged at their polling place, or may be told by a family member or guardian that they won't allow them to vote, or that the family member will determine who they vote for.

Many adults with cognitive disabilities are able make informed choices, but may need support to ensure that they can appropriately take part in the voting process. People who support adults with cognitive disabilities can help them register to vote, explain what to expect when they are voting, and make sure they know where they can vote in their community. If requested by the voter, they 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 with completing their ballot, but the ballot must be completed as directed by the voter. 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.

Based on the importance and sensitivity of these voting rights concerns, we see a clear need for training for election officials, guardians, and for care staff on these aspects of voter rights and accommodations.

**Access to Photo ID.** Access to photo ID can be barrier for some voters with disabilities. Many people with disabilities do not drive; they do not have a driver's license and may not have other acceptable photo ID. While a free ID for voting can be obtained at Department of Motor Vehicle (DMV) offices, many people with disabilities have very limited access to transportation, especially accessible transportation. This is especially challenging in rural areas where many DMV locations have limited hours and a long commute to access of 40 minutes or more. During the pandemic, DMV locations were closed for months; some locations are still closed.

Many of the voters we support are on a fixed income; a ride to the DMV office to obtain a photo ID is not funded by Medicaid or other state transportation programs, and have limited or no access to transportation. Volunteer programs

that provide transportation to polling stations for person do not have lift equipped vehicles, so they are not usable for persons with mobility disabilities.

Wisconsin must take steps to expand options for obtaining photo ID. This could include improving DMV access by expanding hours including adding evening and Saturday hours, and co-locating state ID operations at locations that are already accessed by people with disabilities and older adults such as Aging and Disability Resource Centers and income maintenance offices. The physical accessibility of DMV offices should also be addressed.

Wisconsin could also increase acceptable photo ID options for voting purposes to be inclusive of non-drivers. Some options to consider are: Any photo ID card issued by the federal government, the state of WI, or a Wisconsin county, local government, or other governmental entity; regular college and university ID cards from all WI colleges and technical schools; high school student photo ID cards, out-of-state drivers' licenses; an affidavit for voters who have reasonable impediments to obtaining a photo ID.

### **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.

Our coalition members supported the Wisconsin Election Commissions decision to send 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.

For voters with disabilities, it is very important to continue to have a continuum of options to cast a ballot including absentee voting, early in person voting, and options such as secure drop boxes for returning a ballot.

### **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 chronically 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.

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. 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 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, infirmity, or age. In some cases, these voters have a photo ID: the recent WEC report on the 2020 election 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. Obtaining a copy of a photo ID can also be a barrier for many voters with disabilities, especially during the pandemic, as addressed earlier in this document. 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.

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.

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. It would be helpful to have education for members of the public, as well as local election officials to provide a better understanding of the Indefinitely Confined provision.

### **Voters in Care Facilities**

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.

Many, but not all care facilities, are eligible to have Special Voting Deputies dispatched by the clerk conduct in person absentee voting. Based on recommendations from public health experts regarding the high vulnerability of residents in nursing homes and other care facilities, Special Voting Deputies (SVDs) were not dispatched in the recent elections. This was a very difficult

decision to make but was made to protect the health and the lives of care facility residents and staff.

The *Wisconsin Election Commission November 3<sup>rd</sup> 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.

We look forward to a time when it will be safe to bring in SVDs, and see opportunities to improve the SVD program:

The audit is an opportunity to determine if and how clerks are reaching out to care facilities. Are all eligible care facilities supported by SVDs, and are care facility residents receiving the assistance they need with voter registration and with applying for an absentee ballot? The data from 2016 indicates a relatively small number of care facility residents are participating in the SVD program: 21,701.

As of February 9<sup>th</sup>, 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.

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

We strongly support provision of training to facility staff to ensure the voting rights of residents. This should include offering assistance with voter registration as part of the intake process. Care facility care plan/chart for each resident should indicate whether an individual wishes to vote in upcoming elections, so assistance filing an absentee ballot request and ongoing voting support can be provided.

There will continue to be smaller residential facilities who do not have access to SVDs and there may be other health outbreaks that limit use of SVDs at some facilities. SVDs only visit a facility twice and this may not provide the opportunity to assist all residents. In addition, given the number of potentially eligible facilities, and the small number of SVD voters, it's unclear how eligible facilities are being identified and what proactive outreach is taking place. 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. We recommend that the Audit review and reconsider this process. Wisconsinites should not lose their right to vote privately and independently because they live in a group home or nursing home.

Given the current limitations of the SVD program, some care facility voters will need to vote without an SVD. In those cases, residents should 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. 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.

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.