



Date: October 31, 2023

To: Chair Krug and members of the Assembly Committee on Campaigns and Elections

From: Janet L. Zander, Advocacy & Public Policy Coordinator

Re: **AB 572** relating to: absentee voting in certain residential care facilities and retirement homes and court determinations of incompetency and ineligibility to vote

Thank you for this opportunity to share testimony on AB 572. According to the Wisconsin Elections Commission's Voter Registration Statistics (October 2023), over 1.9 million Wisconsinites ages 50 and older are registered electors.¹ Voting is a high priority for many older adults. Despite a strong desire to vote, as people age, there are often barriers standing between their desire to vote and being able to vote.

Nationally about 1 in 6 people are age 65 and over, while Wisconsin's 65 and older population represents 1 in 5 people (20%). Over 1.1 million Wisconsinites are age 65 and older and nearly 40% (almost 450,000) of the older population is age 75 and older and almost 12% are age 85 and older.² According to research conducted by the National Council on Aging (NCOA), 94.9% percent of adults age 60 and older have at least one chronic health condition, while 78.7% have two or more.³ In 2023, over 17,000 people currently reside in certified Wisconsin nursing facilities.⁴

AB 572

Section 1:

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) supports changes in Section 1 of the bill requiring the Wisconsin Election Commission to, **upon receipt of a determination of ineligibility to register to vote** or to vote under s. 54.25 (2) (c) 1. g. **or**

¹ Wisconsin Elections Commission (Oct. 2, 2023). October 1, 2023 Voter Registration Statistics. Retrieved on October 30, 2023 from <https://elections.wi.gov/resources/statistics/october-1-2023-voter-registration-statistics>.

² Health Compass Milwaukee. Age Data for State: Wisconsin. Retrieved on October 30, 2023 from https://www.healthcompassmilwaukee.org/demographicdata?id=52§ionId=942#sectionPiece_207

³ National Council on Aging. Chronic Inequities: Measuring Disease Cost Burden Among Older Adults in the U.S. A Health and Retirement Study Analysis. Page 5, Figure 2. April 2022. Retrieved on October 30 2023 <https://ncoa.org/article/the-inequities-in-the-cost-of-chronic-disease-why-it-matters-for-older-adults>.

⁴ KFF. Total Number of Residents in Certified Nursing Facilities. Retrieved on October 30, 2023 from <https://www.kff.org/other/state-indicator/number-of-nursing-facility-residents/?activeTab=graph¤tTimeframe=0&startTimeframe=8&selectedRows=%7B%22states%22:%7B%22wisconsin%22:%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

restoration of an elector's right to vote, no later than 2 business days after receiving the determination, **change the status of the elector subject to the determination to inactive (or active if the right to vote is restored) on the official registration list** under s. 6.36, **note on the list that the elector is ineligible (or eligible) to vote** in accordance with s. 6.03 (3), **and notify the elector and the elector's municipal clerk of the elector's change in status**. This change addresses the need for an accurate record of eligible voters and recognizes that voting rights may be lost or restored and adjusts the eligible voters list based on specific actions taken by the courts.

Section 3:

We have concerns regarding Section 3 of the bill related to *requiring* the administrator of a qualified retirement home or residential care facility to provide notice of the dates and times when the special voting deputies will be visiting the home or facility to everyone designated as a contact by the occupant who intends to vote by absentee ballot with the deputies. The Wisconsin legislature has previously recognized that people living in residential care settings (nursing homes, community-based residential facilities [CBRFs], retirement homes, residential care apartment complexes [RCACs], and adult family homes) might have more difficulty accessing their polling place on Election Day. To address the difficulties voters in care facilities may experience, laws were put in place to ensure greater access by requiring Special Voting Deputies (SVDs) to conduct in-person absentee voting. **The use of SVDs to conduct absentee voting in certain facilities should in no way impede voters' rights to vote privately and independently**. Under current law, once arrangements have been made for SVDs to visit a facility, notice of the date and time of the SVDs' visit is posted in the facility, provided to news media, and placed on the local municipality's website (if applicable). In addition, upon the request of a relative of an occupant of the facility, the administrator *may* notify the relative of the date/time SVDs will be conducting absentee voting. Requiring a facility administrator to provide notice to everyone designated as a contact for each occupant who intends to vote by absentee ballot with the SVDs violates each resident's choice related to whom they wish to be notified or if they wish any of their contacts to be notified of their intention to vote. The requirement to notify family members without permission from the resident implies voters in care facilities are less than qualified voters due to their age or infirmity and is discriminating.

Lastly, we note the Legislative Reference Bureau (LRB) summary stating the threshold an individual must meet to be eligible to vote as capable of "understanding the objective of the elective process," is incomplete. According to state statute **6.03 Disqualification of electors:**

(1) The following persons shall not be allowed to vote in any election and any attempt to vote shall be rejected:

(a) Any person who is incapable of understanding the objective of the elective process or who is under guardianship, unless the court has determined that the person is competent to exercise the right to vote.

(3) No person may be denied the right to register to vote or the right to vote by reason that the person is alleged to be incapable of understanding the objective of the elective process unless the

person has been adjudicated incompetent in this state. If a determination of incompetency of the person has already been made, or if a determination of limited incompetency has been made that does not include a specific finding that the subject is competent to exercise the right to vote, and a guardian has been appointed as a result of any such determination, then no determination of incapacity of understanding the objective of the elective process is required unless the guardianship is terminated or modified under s. 54.64.

It is essential for the summary to include section 3, as poll workers are not permitted to reject any attempt to vote based solely upon their *belief* that the voter does not understand the objective of the elective process, in the absence of a court determination indicating the person has been determined to be incompetent to exercise the right to vote.

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) is a nonprofit agency committed to supporting the successful delivery of aging programs and services in our service area consisting of 70 counties (all but Dane and Milwaukee) and 11 tribes in Wisconsin. We are one of three Area Agencies on Aging in Wisconsin. Our mission is to deliver innovative support to lead aging agencies as we work together to promote, protect, and enhance the well-being of older people in Wisconsin. There are over one million adults ages 60 and older residing in our service area.

Thank you for your consideration of our testimony regarding AB 572. GWAAR supports voting processes that ensure every eligible older adult who wants to vote, can vote, no matter where they live or the means by which they choose to vote. We appreciate the interest in and efforts of policy makers to preserve, protect, and enhance the voting rights of older adults and people with disabilities. We look forward to continuing to work with you on policies that improve the quality of life of older people in Wisconsin.

**Working together to promote, protect, and enhance
the well-being of older people in Wisconsin.**

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