2020 revealed some actual Wisconsin election bugs. Here’s the latest on fixes.

*Bills that would allow absentee ballots to be processed and ensure adjudicated incompetent voters are better tracked passed the Assembly Thursday*

**By Jack Kelly**

*Wisconsin Watch*

*This story was originally published by* [*Wisconsin Watch*](https://wisconsinwatch.org/?p=1283606)*.*

With less than a year to go until the 2024 presidential election, the Assembly on Thursday approved several bills that would change election administration in Wisconsin.

Though the proposals come after years of conspiracy-fueled misinformation about the state’s 2020 presidential vote, they mainly address legitimate issues that election clerks say need to be fixed before the next election.

For example, one bill would allow clerks to start processing absentee ballots on the Monday before Election Day, which could prevent Milwaukee’s late-night election result reporting that has fueled unsubstantiated suspicion about election integrity.

Another would change how clerks keep track of people whom a court deems incapable of voting. [Wisconsin Watch previously reported](https://wisconsinwatch.org/2023/03/dane-county-election-review-finds-dozens-of-ineligible-voters-who-cast-ballots/) adjudicated incompetent voters have cast hundreds of ballots in the past decade, not enough to change election outcomes, but more than all [prosecuted election fraud cases](https://wisconsinwatch.org/2023/03/election-integrity-voter-fraud-common-infraction-wisconsin/).

Several of the bills have included bipartisan input, according to Rep. Scott Krug, R-Nekoosa, who chairs the Assembly Committee on Campaigns and Elections and has helped shepherd many of the proposals. He said they’re intended to address pain points election officials experienced in 2020.

“There is no way in my mind that 2024 should be another 2020,” Krug said during a Tuesday committee meeting. “That is the end all be all.”

To better understand the implications of these potential changes, some of which received bipartisan support, Wisconsin Watch spoke with four election clerks — from large and small counties — about the bills.

**Canvassing absentee ballots early**

One of the proposals approved Thursday would allow election officials to begin the process of opening absentee ballot envelopes and preparing ballots to be tallied after polls close on Election Day.

The [legislation](https://docs.legis.wisconsin.gov/2023/related/amendments/ab567/asa2_ab567) is aimed at speeding up the reporting of unofficial election results on election night, something Krug said should help dispel concerns about so-called “ballot dumps” — when large tallies of votes, often from absentee ballots, are reported once they’ve been processed, usually well after polls close.

In 2020, for example, many Wisconsinites went to bed on election night with TV stations reporting former President Donald Trump was leading in the state. But after Milwaukee reported results from about 170,000 absentee ballots overnight, President Joe Biden went on to win Wisconsin. That overnight shift fueled falsehoods about foul play.

Allowing election officials to prepare absentee ballots for tabulation early would speed up results and minimize overnight reporting, three of the election officials told Wisconsin Watch.

“Absentee ballots are the most time-consuming piece of an election,” said Lisa Tollefson, who has served as Rock County clerk since 2015. “So the only way to get everybody done about the same time, because of the volumes (of absentee ballots) that they're dealing with in the larger municipalities, is to move the start time.”

Under current law, clerks are not allowed to start processing absentee ballots until 7 a.m. on Election Day.

Lincoln County Clerk Chris Marlowe said that many municipal clerks in his north central Wisconsin communities are pushing for early canvassing and that he supports the effort.

“Absentee ballots are not going anywhere, and they’re just getting more and more popular,” Marlowe said. “If you want to absentee vote, that’s fine. Let’s do it. Let’s do it right. And let’s get it done.”

Dane County Clerk Scott McDonell agreed that canvassing absentee ballots early would help ease the Election Day burdens officials face.

“When you can't even touch (absentee ballots) until polls open on Election Day, it's just a lot to do,” McDonnell said of the current system.

Tollefson and Marlowe said early processing would be key to dispelling misinformation around “ballot dumps” by helping deliver unofficial election results closer to when polls close.

**Absentee ballot certificates**

Another [proposal](https://docs.legis.wisconsin.gov/2023/related/proposals/ab570) passed Thursday would specify what information needs to be on an absentee ballot envelope for a clerk to accept it.

Under existing law, absentee ballots must be returned with a voter's signature and a witness’ signature and address. In 2016 the Wisconsin Elections Commission unanimously approved guidance that would allow municipal clerks to fill in missing information on ballot envelopes without contacting a voter “if clerks are reasonably able to discern any missing information from outside sources,” a practice known as “ballot curing.”

In September 2022 a Waukesha County judge ruled clerks can’t cure ballots, ordering WEC to rescind the guidance.

The [ruling](https://www.lwv.org/sites/default/files/2023-04/2022-10-03_WaukeshaCirCt-order-grant-final-judgment.pdf), along with a discrepancy between what information is asked for on the ballot envelope and what is outlined in state law, raised questions about what constitutes an acceptable address. Oconomowoc Clerk Diane Coenen said “clerks don’t know what is right anymore.” She noted that seemingly minor ambiguities in state law can have serious implications, such as rejected ballots.

Coenen told Wisconsin Watch that codifying what information is required would help officials when determining whether to accept a ballot or return it to a voter for additional information. Tollefson and Marlowe agreed.

McDonell pushed back on the idea that the definition is necessary. He said the standard should be whether clerks can determine who the witness is.

McDonell expressed concern that requiring specific information on the certificate is a ploy to allow more ballots to be thrown out. He said the point of the information is to be able to track down a witness and verify that the person did, in fact, witness someone sign a ballot certificate, “not to play a Mickey Mouse game of let's see if we can kick this ballot out because we think it’s probably a Democratic ballot.”

**Tracking legally disqualified voters**

Wisconsin has a system designed to protect mentally incapacitated people from having someone else cast their ballot. A court can deem someone incompetent and revoke the person’s voting rights.

However, a small number of people who have been “adjudicated incompetent” to vote continue to cast ballots in Wisconsin elections. In Dane County alone, 95 people have cast more than 300 ballots in past elections, according to a review conducted by the county clerk’s office and [shared with Wisconsin Watch](https://wisconsinwatch.org/2023/03/dane-county-election-review-finds-dozens-of-ineligible-voters-who-cast-ballots/) earlier this year.

Former Wisconsin Supreme Court Justice Michael Gableman, whom Assembly Speaker Robin Vos hired in 2021 to lead a partisan review of Wisconsin’s 2020 election, latched on to the idea that incompetent voters at nursing homes were casting ballots in large numbers. A Wisconsin State Journal [analysis](https://madison.com/news/local/govt-and-politics/michael-gablemans-numbers-on-wisconsin-nursing-home-votes-dont-add-up/article_7ea4b755-b2f7-53d2-aa73-66b8fe497b94.html) showed Gableman’s numbers didn’t add up, but he still sowed doubts about the legitimacy of the 2020 election.

A [bill](https://docs.legis.wisconsin.gov/2023/related/proposals/ab572) approved by lawmakers Thursday would seek to address holes in that system and ensure those adjudicated incompetent don’t vote.

The bill would require a court to notify WEC, by email, when it makes a determination of incompetency and ineligibility to vote, according to a Legislative Reference Bureau [analysis](https://docs.legis.wisconsin.gov/2023/related/proposals/ab572) of the bill. The elections commission would then have to make the person inactive on the state’s official voter list, note that the person has been ruled incompetent and notify both the voter and the voter’s local clerk of the status change. The legislation also mandates that clerks review the voter list before issuing a ballot.

McDonell, who provided data about adjudicated incompetent voters to Wisconsin Watch, welcomes updates to the tracking system. He said if voter competence were marked in the voter database the same as felony convictions, it would be “a much better way of handling the situation than what we’re doing currently, where we have no idea, really.”

“It's not a lot of voters,” he added. “But still, it's something that's not 100% accurate that we can fix.”

Tollefson also said the bill would “actually help clerks.”

“Give (clerks) the information so they can actually take care of it,” she said.

Coenen, who facilitates voting at several senior care facilities in her community, said she often gets calls from facility resident family members claiming their loved one isn’t capable of voting, even though a court hasn’t removed the person’s voting rights. She said having an updated list to reference would help when responding to those loved ones, who sometimes misunderstand the process.

She cautioned that while an updated system “will be helpful, but I do believe that things will slip through the cracks.”

**More protections for election officials**

A fourth piece of legislation would stiffen penalties for harassing, threatening or harming election officials. For example, under the [bill](https://docs.legis.wisconsin.gov/2023/related/proposals/ab577), causing bodily harm to an election official would be elevated from a misdemeanor offense to a felony, according to an LRB analysis.

The bill comes after election officials across the country and in Wisconsin have been threatened and harassed in recent years at levels higher than before the 2020 presidential election. Among Wisconsin clerks, 19% who had worked a presidential race before 2020 reported receiving “more threatening or hostile messages in 2020 relative to other presidential elections,” according to a [survey](https://thompsoncenter.wisc.edu/wp-content/uploads/sites/509/2021/09/Burden-2020-Wisconsin-Election-Report-PUBLIC.pdf) conducted by the University of Wisconsin-Madison’s Elections Research Center in spring 2021.

McDonell, Tollefson, Coenen and Marlowe all said they support increasing penalties for harassing, threatening or harming an election official.

“I think stiffening those penalties works,” said McDonell, who is overseeing renovations of a new, secure election facility in Dane County. “It is an attack on our democracy and it destabilizes our system of government and it can't just be treated as any other casual threat. It needs to be taken very seriously.”

Tollefson said ensuring greater protections is “really important because without those election officials, you’re not going to have an election.” She added that safe and secure elections are “the cornerstone of our democracy,” warranting extra protections.

Coenen called the potentially increased penalties a positive step, adding that “the harassment is escalating.” She said people frustrated with the outcome of recent races are using election officials as scapegoats, blaming them for the results of an election they don’t like.

Marlowe, who said he supports stiffening penalties, said election workers in more rural communities aren’t immune from threats.

“Election Days are emotionally charged,” he said. “People seem to just be a little bit on edge when it comes to casting their vote. And it’s getting worse.”

The bills now await action in the GOP-controlled state Senate. If they’re passed, Democratic Gov. Tony Evers would have to approve them.

In a statement Evers spokesperson Britt Cudaback said the governor would sign the bill allowing absentee ballots to be processed on Monday provided there aren’t “any poison-pill additions.”

Regarding the other proposals, Cudaback said Evers “will veto any bill that enables politicians to interfere with our elections or makes it harder for eligible Wisconsinites to cast their ballot, but if there are common-sense proposals that help ensure Wisconsin’s elections continue to be fair, secure, and safe, he’ll certainly consider signing them.”

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