

WISCONSIN VOTER REGISTRATION

These resources are current as of 4/13/2019. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law.

Please email us at advocacy@afj.org.

What's New in This Guide

The following changes/additions have been made since the previous version of this guide:

- Wisconsin's voter ID requirements
- Elimination of voter registration transfers
- Electronic voter registration
- Elimination of Special Registration Deputies

This guide summarizes key aspects of state campaign finance law and regulations. It is not intended to provide legal advice or to serve as a substitute for legal advice

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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Important Note: While the constitutionality of Wisconsin's voter ID requirement has been upheld, lawsuits over numerous statutory requirements related to registration and voting were filed in the Eastern and Western Districts of Wisconsin in 2016 and have been consolidated on appeal before the 7th Circuit Court of Appeals. As of this writing, parties are still awaiting a decision.

In July 2016, the Western District of Wisconsin upheld the elimination of corroboration by another person as proof of residence and the elimination of statewide special registration deputies while striking down an increase in the residence requirement for voting from 10 to 28 days for all offices other than president and vice president. See *One Wisconsin Institute v. Thomsen*, No. 15-cv-324 (W.D. Wis. July 29, 2016). The state's motion to stay the order pending appeal was denied by the 7th Circuit Court of Appeals and the state subsequently announced that it would not seek a stay from the U.S. Supreme Court. See *One Wisconsin Institute v. Thomsen*, Nos. 16-3083 & 16-3091 (7th Cir. August 22, 2016).

In March 2016, the Western District permitted plaintiffs to reinstate limited voter ID claims; specifically, that the Wisconsin DOT's free ID process was implemented in "an arbitrary, capricious, abusive, and racially discriminatory manner." Wisconsin DOT has since adopted administrative rules which allows for a petition process when proof of identify and citizenship documents are not available and requires the issuance of identification to be used for the purpose of voting during that process. Litigation in the Eastern District of Wisconsin similarly addressed whether individuals unable to obtain a qualifying photo ID with reasonable effort are entitled to relief from the voter ID requirement. In July 2016, the court granted a preliminary injunction and ordered the state to provide an affidavit option for voters who are unable to obtain a photo ID. See *Frank v. Walker*, No. 11-C-1128 (E.D. Wis. July 19, 2016). In August 2016, the 7th Circuit Court of Appeals stayed the injunction and order. See *Frank v. Walker*, Nos. 16-3003 & 16-3052 (7th Cir. August 10, 2016).

In an order issued on August 26, 2016, the 7th Circuit denied plaintiffs' petition for *en banc* review in both cases. The 7th Circuit held oral argument in 2017 but has not yet issued a decision. Accordingly, an affidavit requirement was not implemented and the Wisconsin DOT's process for issuing free IDs remained in place for the 2016 and 2018 elections and was monitored by the Western District. See *Frank v. Walker*, Nos. 16-3003 & 16-3052; *One Wisconsin Institute v. Thomsen*, Nos. 16-3083 & 16-3091 (7th Circuit August 26, 2016).

In December 2018, 2017 Wisconsin Act 369 (Act 39) limited the time for in-person absentee voting, restricted the use of student identification cards for voting and limited the time for which a DOT temporary identification card is valid. In January 2019, the Western District ruled that its 2016 injunction applied to the Act 369. Accordingly, those provisions of Act 369 are not being administered or enforced while the appeal is pending before the 7th Circuit. In addition, Act 369 has been challenged in its entirety in state court. See *League of Women Voters of Wisconsin v. Knudson*, Case No. 19-CV-00084 (Dane Co. Circuit Ct. January 10, 2019).

DEADLINES FOR VOTER REGISTRATION

Deadline for registering

Registration forms must be delivered to the office of the municipal clerk by 5:00 p.m. no later than the third Wednesday (20 days) preceding an election. [Wis. Stat. § 6.28\(1\)](#).

Late *in-person* registration is allowed in the office of the municipal clerk as late as 5:00 p.m. or close-of-business on the Friday before an election. [Wis. Stat. § 6.29\(2\)\(a\)](#).

Note that the state's 28-day residence requirement was struck down by the Western District of Wisconsin as noted above. [Wis. Stat. § 6.02](#). Currently, an elector must have resided in a Wisconsin election district or ward for 10 days before an election day where the citizen offers to vote. The state has appealed, but the 7th Circuit declined to stay the decision pending the appeal. [Wis. Stat. § 6.15](#).

Does state offer Election Day registration?

Yes. Voters may register in person on election day. [Wis. Stat. § 6.55](#).

Such voters will be required to provide proof of residence under [Wis. Stat. § 6.34](#).

See below for [identification requirements](#).

Does state allow by-mail registration?

Yes. Registration by mail must be delivered to the office of the municipal clerk or postmarked no later than the third Wednesday (20 days) preceding an election. [Wis. Stat. § 6.28\(1\)](#).

Does state allow electronic registration?

Electronic registration became available in January 2017 at myvote.wi.gov.

Only a voter with a valid Wisconsin driver's license or Wisconsin identification card may register or make changes to his or her registration via the electronic system. [Wis. Stat. § 6.30\(5\)](#).

Proof of residence is not required if the individual provides the number of a current and valid driver's license or the number of a current and valid ID card, together with his or her name and date of birth, and that information is instantly verified by the Wisconsin DOT system. Applicants will be notified if their information cannot be matched and instructed to print and return a paper voter registration application. [Wis. Stat. § 6.34\(2m\)](#).

Electronic registration closes at 11:59 p.m. on the 3rd Wednesday preceding the election. [Wis. Stat. § 6.28\(1\)](#).

May voter register before turning 18?

Yes.

A qualified elector may register before he or she turns 18; registration forms require the voter to confirm that he or she will be 18 years of age on or before the date of the election. See [EL Form 131](#). Note that the 2011 repeal of mandatory placement of special registration deputies at public schools was upheld by the Western District of Wisconsin in July 2016. See *One Wisconsin Institute v. Thomsen*, No. 15-cv-324 (W.D. Wis. July 29, 2016).

Every U.S. citizen who is 18 or older and has resided in a Wisconsin election district or ward for 10 days before an election day where the citizen offers to vote is eligible to vote. [Wis. Stat. § 6.02\(1\)](#). Age is determined on the day of the election. [Wis. Stat. § 6.05](#).

May voter transfer a registration?

No. A voter who moves to a new residence within Wisconsin must re-register. [Wis. Stat. §§ 6.10\(3\), 6.325](#).

A person who moves into a new ward or election district 10 or more days before the election, but forgets to re-register, can do so at the polls on election day. A person who has lived in the new ward or election district for less than 10 days must vote at the polling place assigned to his or her previous address.

VOTER ID REQUIREMENTS

Required for registration? If so, what kinds of ID?

While photo ID is not required to register, there are *three situations* in which registrants will be required to provide *proof of residence*. In these situations, proof of residence is required to establish the registrant's current address, *not* to prove that the registrant complies with the 10-day residence requirement (the voter's sworn statement on the registration form regarding the 10-day residence requirement shall be presumed to be true). Registrants will be required to provide proof of residence in the following situations:

First time voters registering by mail. A first time voter is an individual who has never voted in an election in Wisconsin, even if the individual has previously been *registered* to vote in Wisconsin. Such individuals must provide proof of residence when voting in person or, if voting by absentee ballot, must provide a copy of proof of residence. For those registering by mail, a residential lease will not satisfy the proof of residence requirement. [Wis. Stat. § 6.34\(2\)](#).

All individuals registering in-person after the close of regular registration. Wisconsin permits individuals to register in-person up until 5 p.m. the Friday before election day. *All* individuals who register after the close of regular registration (20 days before election day) and prior to 5 p.m. the Friday before election day will be required to provide proof of residence at the time of registering. [Wis. Stat. § 6.29\(2\)\(a\)](#).

All individuals registering on election day. Wisconsin permits individuals to register in-person on election day, and all such individuals will be required to provide proof of residence. [Wis. Stat. § 6.55\(2\)\(b\)](#).

Any document used as proof of residence must contain the current and complete name of the elector as well as current and complete residential address, including numbered street address and the name of the municipality, with the exception of a university, college or technical college identification card that contains a photograph of the cardholder when other conditions are met. Generally, acceptable proof of residence includes:

- a current and valid Wisconsin driver's license;
- a current and valid identification card issued by the Wisconsin DOT;
- any other official identification card or license issued by a Wisconsin governmental body or unit;
- an official ID card or license issued by an employer that contains a photo (this does not include a business card);

- a real property tax bill or receipt for the current year or the year preceding the date of the election;
- a residential lease – provided the elector is *not* registering by mail;
- a university, college or technical college identification card that contains a photograph of the cardholder, but not an address. The student must also provide a fee receipt from the school dated within the last 9 months unless the school provides a certified and current list of students who reside in housing sponsored by school to the municipal clerk. Note that a requirement that the educational institution also certify that students are U.S. citizens was struck down by the Western District of Wisconsin. *See One Wisconsin Institute v. Thomsen*, No. 15-cv-324 (W.D. Wis. July 29, 2016);
- a utility bill for the period commencing not earlier than 90 days before the day registration is made;
- a bank statement;
- a paycheck;
- a check or other document issued by a unit of government; or,
- a contract or intake document prepared by a residential care facility specifying that the occupant currently resides in the facility.

[Wis. Stat. § 6.34\(3\)](#).

Corroboration no longer permitted in lieu of proof of residence. Previously, Wisconsin law permitted an individual who was otherwise unable to satisfy the proof of residence requirement to have his or her residence corroborated by another elector. However, individuals are no longer permitted to satisfy the proof of residence requirement via corroboration. *See One Wisconsin Institute v. Thomsen*, No. 15-cv-324 (W.D. Wis. July 29, 2016).

Proof of identity. To comply with the federal Help America Vote Act of 2002, Wisconsin requires a new registrant to provide proof of identity by supplying his or her valid Wisconsin driver's license or identification number. [Wis. Stat. § 6.33\(1\)](#), [EL § 3.04\(1\)](#). If the elector does not have a current and valid Wisconsin driver's license or identification card issued to him or her, the elector may instead provide the last four digits of his or her social security number. [Wis. Stat. § 6.33\(1\)](#), [EL § 3.04\(3\)](#). If the applicant does not have a Wisconsin driver's license, identification card or social security number, he or she must indicate so on the registration form. *See* [EL-131](#), "Wisconsin Voter Registration Application."

Required for voting? If so, what kinds of ID?

Important Note: The photo ID requirements in 2011 Wisconsin Act 23 that had been enjoined since 2012 took effect in 2015 when the U.S. Supreme Court denied a petition for certiorari. The first statewide elections in which voters were required to show a valid photo ID took place in February and April of 2016. In April 2016, the 7th Circuit Court of Appeals ruled that litigation may continue on the question of

whether individuals unable to obtain a qualifying photo ID with reasonable effort are entitled to relief from the voter ID requirement. See *Frank v. Walker*, No. 15-3582 (7th Cir. April 12, 2016). Under administrative rules adopted in 2017, Wisconsin DOT provides an identification card receipt to be used for the purpose of voting when an individual is not able to provide a social security number or documentation of proof of name, date of birth and U.S. citizenship.

A photo ID is required to vote. [Wis. Stat. § 6.79\(2\)\(a\)](#). This requirement applies to all voters, regardless of whether they register to vote prior to or on election day. Acceptable forms of photo ID for voting purposes are:

- A Wisconsin DOT-issued driver's license, even if driving privileges are revoked or suspended; can be expired but only since the last General Election.
- A Wisconsin DOT-issued identification card; can be expired but only since the last General Election.
- A Military ID card issued by a U.S. uniformed service; can be expired but only since the last General Election.
- An unexpired veterans identification card issued by the Veterans Health Administration of the U.S. Department of Veterans Affairs.
- A U.S. passport; can be expired but only since the last General Election.
- A certificate of naturalization that was issued not earlier than two years before the date of an election at which it is presented.
- An unexpired driving receipt issued by Wisconsin DOT.
- An unexpired identification card receipt issued by Wisconsin DOT.
- An identification card issued by a federally recognized Indian tribe in Wisconsin.
- An expired or unexpired identification card issued by a Wisconsin accredited university or college ONLY valid if the voter provides proof of enrollment. Proof of enrollment includes, but is not limited to, a fee receipt, class schedule or an enrollment verification form. The card must contain the student's name, photograph and signature, date of issuance and it must expire no later than two years after the date of issuance. The Western District of Wisconsin ruled that an expired card remains a valid form of identification if it contains these required elements. See *One Wisconsin Institute v. Thomsen*, No. 15-cv-324 (W.D. Wis. July 29, 2016).

[Wis. Stat. § 5.02\(6m\)](#).

An individual who presents a valid photo ID must also state his or her name and address and sign the poll list. [Wis. Stat. § 6.79\(2\)\(a\)](#).

An individual may vote provisionally if he or she (1) fails to provide an acceptable form of photo ID or (2) fails to provide proof of residence. [Wis. Stat. § 6.97\(1\)](#). Provisional ballots are counted only if the voter relays the appropriate information to the polling place before the closing hour on the day of the election, or to the

municipal clerk's office or board of election commissioners before 4:00 p.m. on the Friday after the election. [Wis. Stat. § 6.97\(3\)\(b\)](#).

The first time a person requests an absentee ballot, a copy of the photo ID must be provided. After that, it is no longer required. The photo ID requirement does not apply to military and permanent overseas voters.

Obtaining a Wisconsin identification card

The DOT Division of Motor Vehicles may not charge a fee for an identification card if the individual is a U.S. citizen and will be 18 years of age on the date of the next election and he or she requires the card for purposes of voting. See [Wis. Stat. § 343.50\(5\)\(a\)3](#).

To obtain a free identification card, an applicant must provide proof of identity, Wisconsin residency and U.S. citizenship. Wisconsin DOT rules provide a petition process if an applicant does not have all of the documents to provide identity and citizenship. An applicant will receive an identification card receipt for purposes of voting while the petition is pending. The receipt is valid for 180 days. [TRANS § 102.15\(5\)](#).

Requirement to provide proof of citizenship to register and/or vote?

Although citizenship is a requirement for eligibility to vote, Wisconsin does not require a voter to provide proof of citizenship. See [Wis. Stat. § 6.02\(1\)](#); [EL § 3.02\(6\)](#). However, proof of citizenship is required to obtain a driver's license or identification card from the Wisconsin DOT. [Wis. Stat. § 343.14\(2\)\(es\)](#).

To comply with the federal REAL ID law, Wisconsin prohibits the state DOT from issuing any driver's license or identification card to a person who does not present proof of legal presence in the United States. [Wis. Stat. §§ 343.06\(1\)\(L\), 343.14\(2\)\(es\)](#). Moreover, the Wisconsin DOT is required to cancel driver's licenses and identification cards of individuals for which it receives notice from a local, state or federal agency that an individual does not have a legal presence in the United States. [Wis. Stat. § 343.20\(1\)\(f\)](#).

VOTER REGISTRATION DRIVES

Important Note: Because Wisconsin permits election day registration, it is exempt from the mandatory requirements in the National Voter Registration Act. Accordingly, some voter registration practices that are used in other states should be verified as acceptable in Wisconsin with the Wisconsin Elections Commission prior to implementation. The Commission will seek assurances that any voter registration efforts do not jeopardize the integrity of the election process.

Does state accept National Voter Registration Act (NVRA) registration forms? Any restrictions?

Voter registration drives are required to use the state's official voter registration form, [EL-131](#). [EL § 3.20\(1\)](#).

May groups “cage” completed registration forms (i.e. asks voters to mail them back to the group, which will then send them to the appropriate elections registrar(s))? If so, may they copy the forms or any of the data included on them? If so, any deadlines for sending the completed forms to the state or to local officials?

Although Wisconsin law does not prohibit groups from caging voter registration forms, this practice is highly discouraged, as groups that cage forms will be subject to higher scrutiny in the form of audit and investigation. There are restrictions on what information can be retained. See below.

Many organizations distribute Wisconsin voter registration applications – in hard copy as well as via the Internet – to individuals along with instructions on how to complete and return the forms to the appropriate municipal clerk. Organizations should use the form provided by the Elections Commission: [Form EL-131](#). [EL § 3.20\(1\)](#). An individual voter then completes the form, attaches a copy of his or her proof of residence and then submits the form directly to the appropriate municipal clerk. Organizations may also help Wisconsin driver's license or ID holders register to vote online at [myvote.wi.gov](#).

Alternatively, organizations may collect the voter registration applications and copies of appropriate identification for each individual, and then deliver the forms to the appropriate municipal clerks. No statute, rule, or regulation currently authorizes groups to, or disallows groups from, caging completed registration forms. With the elimination of Special Registration Deputies in 2017 (see below), proof of residence may only be verified by the municipal clerk. Special Registration Deputies may no longer sign voter registration forms verifying proof of residence.

The form and the applicable proof of residence document must be returned to the clerk.

In addition, there are certain restrictions on the information that can be retained by the individual or organization conducting voter registration drives:

- They may not retain a copy of any form of proof of the voter's residence. [EL§ 3.20\(5\)](#).
- They may not retain certain information provided by the voter, including the voter's date of birth, driver's license number, DOT number, or last four digits of the social security number of the person who completed the registration. [EL § 3.20\(2\)](#).

All completed applications must be postmarked by the 3rd Wednesday preceding the election to be registered for that election. [Wis. Stat. § 6.28\(1\)](#). (However, registration is allowed in person until 5:00 p.m. on the Friday before election day, or through 8:00 p.m. on election day. See [Wis. Stat. §§ 6.29, 6.55](#).) Procedures for submitting completed voter registration applications are established by each municipality. Accordingly, no statute, rule or regulation requires an organization to return completed applications within any specified time-period. Nonetheless, the Wisconsin Elections Commission recommends that an organization return completed applications within 10 days of the date the voter signed the completed form.

If the registration form submitted to the municipality is incomplete, the municipal clerk is required to contact the applicant to obtain the missing information. [EL § 3.03\(2\)](#).

May a group “pre-fill” some or all of the form before sending/giving it to a would-be registrant?

No statute, rule, or regulation precludes an organization from filling in information in the registration form before giving the form to a would-be registrant.

The elector's original signature is required on each voter registration form. Otherwise, numerous online and paper programs are allowed that facilitate the completion of the form itself.

As discussed above, if the registration form submitted to the municipality is incomplete, the municipal clerk is required to contact the applicant to obtain the missing information. [EL § 3.03\(2\)](#).

May voter registration drive workers assist a voter in completing their registration form?

No statute, rule, or regulation precludes a voter registration drive worker from assisting a voter in completing their registration form.

As discussed above, if the registration form submitted to the municipality is incomplete, the municipal clerk is required to contact the applicant to obtain the missing information. [EL § 3.03\(2\)](#).

Does state require training of voter registration workers?

Wisconsin does not require training of voter registration workers.

Does state require registration of voter registration drives? If so, for by-mail drives, too?

A partisan “get out the vote” or registration drive is required to register with the appropriate filing officer and meet the applicable requirements of the campaign finance law. [Wis. Stat. § 11.0100](#).

A non-partisan, non-candidate-specific voter registration or voter participation drive is not subject to registration or reporting requirements. [Wis. Stat. § 11.0100](#).

Any requirement that a group must provide information to voters about how they may contact the group to determine the status of their registration?

No statute, rule, or regulation requires a group to provide information to voters about how the voter may contact the group to determine the status of their registration.

May a group pay voter registration drive workers? If so, is it permissible to pay on a per-voter-registered basis?

Individuals circulating voter registration forms may be compensated, but compensation cannot be based on the number of registration forms collected. [Wis. Stat. § 12.13\(3\)\(ze\)](#); [EL § 3.20\(6\)](#).

A person who violates this provision may be fined up to \$1,000 or imprisoned for up to six months, or both. [Wis. Stat. § 12.60\(1\)\(b\)](#).

A group may pay voter registration drive workers based on criteria other than the number of registration forms collected. That which constitutes a “permissible basis” is not otherwise addressed in any statute, rule, or regulation.

Special Registration Deputies

Special Registration deputies were eliminated on January 9, 2017 when the state's electronic voter registration system (myvote.wi.gov) was launched. Voters may no longer be registered by special registration deputies. In other words, only a clerk or an election registration official who provides in-person absentee ballots, registers voters on election day or in a residential care facility (see below) may verify a voter's proof of residence. But as noted above, an organization sponsoring voter registration drive may collect voter registration forms and return them, along with proof of residence, to the municipal clerk.

Election Registration Officials

A municipal clerk or the board of elections may assign election registration officials ("EROs") to register individuals who apply for an in-person absentee ballot or to register individuals at a polling place on election day or at a residential care facility. [Wis. Stat. § 6.28\(1\)](#). EROs must receive training and take an oath of office.

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

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FOR FURTHER ASSISTANCE

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**Jodi Jensen co-authored this guide in her professional capacity as an employee of Godfrey & Kahn and not in her official capacity as a member of the Wisconsin Elections Commission (term expiring 5/1/21).*