

ARDIS CERNY et al.,

Petitioners,

v.

Case No. 2024-CV-1353

WISCONSIN ELECTIONS
COMMISSION et al.,

Respondents.

[PROPOSED] BRIEF OF MUNICIPAL CLERKS AND LOCAL JURISDICTIONS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS' MOTION FOR SUMMARY JUDGMENT

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INTRODUCTION

With voting underway in Wisconsin's 2026 partisan primary, and soon to occur in the November 2026 midterm general election, Petitioners have requested an extraordinary remedy: an order compelling the Wisconsin Elections Commission ("WEC") and the Department of Transportation ("DOT") to not only share information to purportedly verify citizenship of applicants and voters, but also for WEC to purge existing voter registrations from the statewide voter database ("WisVote") or reject voter registration applications based on unreliable and outdated data.¹

Should the Court grant the relief the Petitioners seek in their Amended Petition, *Amici* and other clerks and election officials of Wisconsin's 72 counties and approximately 1,850 municipalities face extraordinary burdens in implementing what amounts to an entirely new voter registration procedure, all in the days and weeks before a major statewide and federal election.

Amici submit this brief to emphasize that there are already adequate measures in place to ensure registered voters meet all eligibility qualifications, including American citizenship. Moreover, *Amici* and their peers rely on WEC's maintenance of an accurate state voter roll and stability in the elections process at the local level. The proposed remedies in the Amended Complaint substantially increase the potential for disruption and disenfranchisement.

This Court should grant Respondents' Motion for Summary Judgment.

¹ Respondents' Brief in Opposition to Motion for Temporary Injunction (Doc. No. 93) discusses lack of reliability of DOT information at length.

INTEREST OF *AMICI CURIAE*

Amici curiae are 42 municipal clerks and other Wisconsin election officials and 15 local governments responsible for administering elections. Municipal clerks have “charge and supervision of elections and registration” and are given broad responsibilities including “any [duties] which may be necessary to properly conduct elections[.]” Wis. Stat. § 7.15(1).

While clerks have many duties unrelated to elections, the primary election-related duty of clerks is to ensure that all eligible citizens in their jurisdictions can exercise the right to vote. *See* 52 U.S.C. § 20501(a) (charging election officials with the duty to “promote the exercise of” the “fundamental right” to vote). Accordingly, *Amici* have a strong interest in ensuring that elections, including registration and voter roll maintenance, run smoothly and without interference. They are the officials who interact with the electorate and have direct experience registering voters, verifying the sufficiency of registration applications, handling challenges, and denying or deactivating registration when necessary. Clerks make elections happen, and their perspective is essential to this litigation.

Amici understand that the remedies sought by Petitioners will not protect the integrity of the election or the accuracy of the WisVote voter list. Instead, they will create confusion, particularly during early voting and on Election Day, and have a strong likelihood of undermining eligible voters’ ability to vote.

ARGUMENT

I. THERE ARE ADEQUATE MEASURES IN PLACE TO ENSURE REGISTERED VOTERS MEET ALL ELIGIBILITY REQUIREMENTS, INCLUDING AMERICAN CITIZENSHIP

Clerks and their staff,² and not WEC, are the frontline officials responsible for voter registration. Under Wisconsin law, only United States citizens are eligible to vote. *See* Wis. Const. Art. III § 1; Wis Stat. § 6.02(1). Local election officials and jurisdictions take their responsibilities seriously, and, as will be discussed below, there is no indication that noncitizen voting or voter registration is an issue, let alone widespread, in Wisconsin.

Wisconsin law permits eligible voters to register to vote in person at the municipal or county clerk's office, by US mail, or (if they hold a current Wisconsin driver's license or state ID) online via the MyVote system (myvote.wi.gov). Wis. Stat. § 6.30. Mail and online registration must be completed by the third Wednesday preceding an election. *Id.* § 6.28. For the 2026 Partisan Primary occurring August 11, 2026, that deadline is July 22, 2026. For the general election November 3, 2026, the deadline is October 14, 2026.³

After that, eligible voters may register in person at their municipal clerk's office by 5:00 p.m. or the close of business, whichever is later, on the Friday before Election Day. Wis. Stat. § 6.29. For the Partisan Primary, that deadline is August 7, 2026, and for the general election, October 30, 2026. Voters may register in person during in-person absentee voting (up to the in-person registration deadline above), and at their regular polling place on Election Day. *Id.* § 6.55.

² Here, "clerk" is used expansively, and includes their authorized representatives (i.e. staff and election inspectors), per Wis. Stat. § 5.02(10). The term also includes the Executive Director of the City of Milwaukee Elections Commission who is responsible for administering elections in the City of Milwaukee. *Id.*

³ WEC maintains a detailed election calendar, https://elections.wi.gov/sites/default/files/documents/2026_2027%20Election%20Calendar_0.pdf (last accessed July 8, 2026).

Special registration deputies may also register voters living in certain retirement and nursing homes. *Id.* § 6.875.

A. Wisconsin law requires voters to affirmatively confirm their citizenship.

Regardless of the timing and method by which voters register, they must first affirmatively indicate that they are an American citizen. On the form EL-131 (which is available in English, Spanish, and Hmong)⁴, applicants check a box:

Wisconsin Voter Registration Application Additional instructions on reverse your municipal clerk

Qualifications please check each box if YOU:	1 If you cannot check every box, do NOT complete this form ☐ Are a citizen of the United States ☐ Have resided at the address provided below for at least 28 consecutive days prior to the election and do not currently intend to move	☐ Will be at least 18 years old on or before Election Day ☐ Are not currently serving a sentence including incarceration, parole, probation, or extended supervision for a felony conviction
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The instructions indicate that if the voter cannot check every box (including the box indicating they are a citizen of the United States), they cannot continue.

On the MyVote system, applicants enter their name and birthdate to look up whether they are already registered. If they are not, they can begin the registration process. After reviewing an instruction screen, the applicants encounter the citizenship question electronically:⁵

Step 2: Am I eligible to vote?

Please verify that you are eligible to register:

Are you a United States Citizen?* ☐ Yes ☐ No ☒ **More Information**

If the voter clicks “no,” they will not be allowed to continue filling out the form to register.

⁴ Available at <https://elections.wi.gov/wec-form/voter-registration-application> (last accessed July 3, 2026).

⁵ Available at <https://myvote.wi.gov/en-us/Voter-Registration> (last accessed July 3, 2026).

At the end of the data entry process, voters must sign (electronically or by hand) a certification stating that to the best of their knowledge, they are a qualified elector and are not otherwise disqualified from voting. They must also acknowledge that if they have provided false information, they may be subject to consequences:

By signing below, I hereby certify that, to the best of my knowledge, **I am a qualified elector**, having resided at the above residential address for at least 28 consecutive days immediately preceding this election, that I have no present intent to move, and I have not voted in this election. I also certify that I am not otherwise disqualified from voting and that all statements on this form are true and correct. If I have provided false information, I may be subject to fine or imprisonment under State and Federal laws

(Form EL-131.). Voters bear initial responsibility to affirmatively verify their eligibility, including their citizenship.

B. The Registration and Challenge Process Provides Important Checks on Voters' Eligibility.

Once the clerk receives the registration paperwork, the clerk's duties are governed by Wis. Stat. § 6.32. The clerks examine the form for sufficiency. If the form contains adequate information to accomplish registration (it is sufficiently complete), and "the clerk has no reliable information to indicate that the proposed elector is not qualified," the clerk *shall* add the elector's name to the registration list. *Id.* § 6.32(4).⁶

If a timely-submitted form is incomplete or insufficient, the clerk must notify the elector and request that they appear at a registration location to complete the form or substantiate the information presented. *Id.* § 6.32(2).

Wisconsin law also establishes procedures by which any voter's qualifications may be challenged. For example, Wis. Stat. § 6.48 allows any registered voter of a municipality to challenge the registration of any other registered voter of the municipality by affidavit.⁷ The

⁶ WEC maintains the official voter list on WisVote (Wis. Stat. § 6.36) but clerks handle registrations and deactivations.

⁷ The City of Milwaukee uses a separate process, but the standards for disqualifying a voter are the same. *See* Wis. Stat. § 6.48(2).

challenger and challenged voter then appear before the clerk, and the clerk may require both parties to answer questions under oath about the challenged voter’s qualifications. Only if the challenger “demonstrates beyond a reasonable doubt that the person does not qualify as an elector or is not properly registered” may their registration be deactivated. Wis. Stat. § 6.325. Similarly, during voting, Wisconsin voters from any municipality, as well as election inspectors, may challenge another voter’s qualifications, including citizenship. *Id.* § 6.92 et. seq.

Importantly, clerks are not permitted to add qualifications or documentation requirements beyond what is provided in statute. Current law requires information to establish residency in most cases, *see id.* § 6.34(2), (3), but does not permit clerks to request proof of citizenship (other than a naturalization certificate per Wis. Stat. § 6.325). The clerk or challenger must prove beyond a reasonable doubt that a voter is not qualified; the burden is not on the voter to prove their qualifications. To require otherwise would be to require clerks to act in violation of state law.⁸

Finally, there are serious consequences for falsely claiming U.S. citizenship, including criminal prosecution and removal. Voting in an election in which one is not qualified, or providing false information (*i.e.* falsely indicating on the EL-131 that one is a U.S. citizen) to procure registration, is voter fraud under Wis. Stat. § 12.13(1)(a)-(b) and Wis. Stat. § 12.13(3)(g). Clerks refer individuals suspected of voter fraud to the appropriate district attorney for investigation and possible prosecution. Violation of these statutes is a Class I felony, and can result in collateral consequences for noncitizens, including removal from the United States.

The processes described above provide ample safeguards against voting by noncitizens—for one, the threat of criminal prosecution, imprisonment, and deportation has been a historically

⁸ As will be discussed further in a later section, in administering elections, clerks rely heavily on WEC, and are required by statute to use the WisVote list that WEC maintains. Wis. Stat. § 5.05(15). Accordingly, reliability and predictability of elections procedures, including how the list is maintained and used, is vital for clerks to be able to effectuate their duties.

effective deterrent against voting without qualification or providing false information during registration.⁹ Noncitizen registration and voting is vanishingly rare. Applicants are reminded throughout the process that they must be citizens to vote. If the clerk or anyone else has *reliable* information that a particular voter is not a citizen, they may challenge that individual's voter registration, and the registration may be denied or canceled.

II. PETITIONERS' REQUESTED RELIEF WILL DISRUPT THE ORDERLY ADMINISTRATION OF ELECTIONS, IMPOSE BURDENS ON AMICI, AND UNDERMINE NECESSARY STABILITY IN ELECTION RULES

The Petitioners have requested extraordinarily broad, yet extraordinarily vague, relief in their Amended Petition. Relevant to clerks' duties, Petitioners have asked that WEC be ordered to reject and deactivate registrations where information from DOT *may* indicate that the voter was not a citizen at the time they obtained their driver's license or state identification; that WEC promulgate rules requiring applicants for voter registration to provide proof of citizenship; and that WEC require municipalities to adhere to procedures to ensure that the WisVote list includes only U.S. citizens.¹⁰ These supposed remedies would complicate a process that is already secure and undermine the important role that local election officials play in the voter registration process.

Should the Court order the requested relief, Wisconsin's elections would be thrown into chaos. The midterm election cycle is already in progress. Cross-motions for summary judgment are, at the time of this submission, set to be heard on September 11, 2026. By then, the August 11, 2026 primary will have concluded. Many voters whose registration may be implicated by the

⁹ See, e.g., Election Fraud Map, Heritage.org, (last visited Jul. 8, 2026), <https://electionfraud.heritage.org/search?state=WI> (finding only one case of noncitizen voting in Wisconsin between 1982 and 2025).

¹⁰ As *Amici* are submitting this brief prior to the parties' cross-motions for summary judgment, their argument relies on prior submissions and requests for relief.

Court's actions will have legally voted at that primary without incident and will have the reasonable expectation of voting without incident in the midterm election.

And by then, the general election will already be underway. Under federal and state law, absentee ballots for the general election must be sent to voters with requests on file no later than September 17, 2026, 47 days before the election. Wis. Stat. §§ 7.10(3), 7.15(1)(c), (cm). That is six days after the hearing. By that time, clerks will be preparing to mail out absentee ballots to registered voters who have requested them. This requires certainty in both the determination of who is a qualified voter and the process for registering voters.

The U.S. Supreme Court has emphasized that courts should avoid eleventh-hour changes to election procedures that “can themselves result in voter confusion and consequent incentive to remain away from the polls.” *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006) (per curiam). “As an election draws closer, that risk will increase.” *Id.* at 5. Pursuant to this so-called “*Purcell* principle,” it is “a basic tenet of election law” that, “[w]hen an election is close at hand, the rules of the road should be clear and settled.” *DNC v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (Kavanaugh, J., concurring). “Even seemingly innocuous late-in-the-day judicial alterations to state election laws can interfere with administration of an election and cause unanticipated consequences.”” *Id.*

The Wisconsin Supreme Court adopted this federal principle in June 2024, in *Brown v. WEC*, concluding that a judicially-imposed election change regarding absentee ballot sites “just months before the August primary and November general elections” created “a risk that the circuit court’s ruling will disrupt ongoing preparations for those elections by creating uncertainty about which sites may be designated as alternate absentee balloting locations.” No. 2024AP232, slip op. at 5 (Wis. June 11, 2024) (citing *Purcell*, 549 U.S. at 4–5). If the Wisconsin Supreme Court

precluded judicial changes to election procedures in *early June*—nearly five months before the general election—then *Purcell*’s admonition applies even more so where, as here, significant and difficult to implement election changes would come within weeks of the general election.

Implementing the proposed changes at this stage will be untenable for *Amici*. However, even if this Court directs WEC (and by extension, *Amici* and other clerks) to implement these changes only after the November 3, 2026 general election, the changes still will unduly burden municipalities and clerks in future elections. The Court should deny the Amended Petition in total.

On the back end, the accuracy of the WisVote list clerks receive from WEC ensures that clerks can effectively run elections. Because (as explained in other briefing) the DOT is not a reliable source of voter citizenship information, reliance on the list Petitioners seek would cause confusion even among well trained and experienced clerks, and would likely disenfranchise a large number of voters, including those who were not naturalized when their identification cards were issued by the Division of Motor Vehicles but have since become naturalized. If WEC is using unreliable data to maintain the voter list, then by extension *Amici* will be using unreliable data to administer elections at the local level, leading to numerous downstream harms to election administration. Voters who are legally registered to vote would arrive at an early voting site or at their polling place on election day and discover that their registrations have been canceled. It is the clerks, not the WEC, who will be required to manage the consequences of the erroneous removal of an individual from the voter rolls.

These voters, and others who arrive at the polls intending to register, may discover that their same-day registrations will not be accepted because their citizenship has been challenged based on unreliable DOT information. Voters who attempt to re-register would likely lack sufficient proof of citizenship and, even if they present documentary proof of citizenship, it is unclear how

a local election official or clerk would resolve a discrepancy with the updated WisVote system. Current law requires that voters bring proof of residency to register, and proof of identification to vote. Most photo IDs valid for voting—including driver’s licenses and state ID cards, student ID cards, military IDs, and veterans’ affairs cards—do not indicate citizenship. A U.S. passport would, but many voters do not have a passport, and most do not carry their passports unless they have an immediate need to use them.

The Wisconsin legislature has not implemented statutes and WEC has not promulgated rules related to voting that set forth how a voter may prove their citizenship. Many questions remain unanswered. Would a certified United States birth certificate be acceptable, and would it be valid if the name on the birth certificate does not match the name on the photo ID required for voting? Wisconsin allows provisional ballots under only two circumstances—inability or unwillingness to provide a Wisconsin driver’s license or ID number if one is available, and failure to bring proper identification to vote. Wis. Stat. § 6.97. Would provisional ballots be allowed for failure to bring citizenship documentation as well? A passport cannot be quickly obtained,¹¹ and court records and birth certificates may take weeks to arrive by mail, which would limit the utility of even provisional balloting under these circumstances.

Clerks would be tasked with reconciling all of this information in real time and without clear direction, diverting resources away from other election-related duties. Unclear guidance could result in increased voter eligibility challenges at the polls. Already thin training budgets would need to be stretched further to ensure that election inspectors understand their new responsibilities

¹¹ Current federal guidance does not require or even allow the State Department to expedite passports for voting purposes. See <https://travel.state.gov/en/passports/apply/get-fast.html>. The State Department's authority to issue passports derives from 22 U.S.C. § 211a, and the availability of urgent issuance is governed by administrative policy for qualifying *travelers*, not by statute.

(regardless of the absence of legal guidance). Lines at the polling place will grow, dissuading directly affected voters and unaffected voters alike.

Moreover, election officials shall not “[p]ermit registration or receipt of a vote from a person who the official knows is not a legally qualified elector...” Wis. Stat. § 12.13(2)(b)3. Violation of this statute is a Class I felony, Wis. Stat. § 12.60(1)(a), which can be punished by up to three years, six months in prison and/or a \$10,000 fine. *Id.* § 939.50(3)(i). If clerks are required, on one hand, to enforce a judicially created, additional qualification to vote (i.e. showing proof of citizenship, not just attesting to citizenship), and on the other, they cannot deactivate or refuse registration unless there is proof beyond a reasonable doubt that the would-be voter is not qualified, *id.* § 6.325, clerks could be exposed to criminal liability for simply doing their jobs. Such a bind, based on likely faulty DOT data and under already immense public scrutiny, would be untenable for clerks.

The consequences of an election inspector making on-the-spot decisions regarding a voter’s eligibility based on inaccurate and outdated information pose unnecessary risks to voters, election officials, and the administration of elections. And at a time in which many jurisdictions already face significant threats and harassment and difficulty recruiting and retaining talent, this would likely result in even further attrition.

CONCLUSION

The Legislature has constructed detailed processes and requirements for voting and registering to vote. The Petitioners are asking the Court to create a new requirement for voters to produce citizenship documentation, and for clerks to process citizenship verification, absent a legislative directive and without the details that the policymaking process would produce. Petitioners’ requests are not just a solution in search of a problem; if granted, their requests would create added, and likely unfunded, burdens to *Amici* and their peers around the state, on the eve of

a midterm election, risking disenfranchisement of eligible voters and exposing election staff to criminal punishment. None of this is necessary or warranted. Accordingly, *Amici* respectfully ask the Court to deny the relief petitioners seek and grant summary judgment to respondents.

Respectfully submitted this 10th day of July, 2026,

Electronically signed by Stacie H. Rosenzweig

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APPENDIX A

List of *Amici*

LOCAL GOVERNMENTS

Town of Algoma, Wisconsin
City of Ashland, Wisconsin
Village of Bloomington, Wisconsin
Town of Burke, Wisconsin
Village of Colfax, Wisconsin
Village of Dane, Wisconsin
Village of Dunn, Wisconsin
City of Fort Atkinson, Wisconsin
Town of Jacksonport, Wisconsin
Town of La Valle, Wisconsin
Town of Roxbury, Wisconsin
City of Sparta, Wisconsin
Village of Valders, Wisconsin
Village of Waunakee, Wisconsin
Town of York, Wisconsin

LOCAL ELECTION OFFICIALS

Amy Barnes

Clerk - Treasurer, Village of New Glarus, Wisconsin

Michael Berner

Clerk, Town of Garfield, Wisconsin

Mercia Christian

Clerk, Town of Eagle, Wisconsin

Jilline Dobratz

Clerk, City of West Bend, Wisconsin

Kelsey Ebert

Deputy Clerk/Treasurer, Town of Pleasant Valley, Wisconsin

Cindi Gamb

Clerk/Treasurer, Village of Kohler, Wisconsin

Lori Geyman
Clerk/Treasurer, Town of Ottawa, Wisconsin

Brandon Gingher
Clerk, Village of Marshall, Wisconsin

Paulina Gutierrez
Executive Director, Milwaukee Election Commission, City of Milwaukee, Wisconsin

Anjela Hamm
Clerk, Town of Farmington, Wisconsin

Tamra Harrington
Clerk/Treasurer, City of Markesan, Wisconsin

Nicole Hunt
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Kristina Irwin
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Chris Johnson
Deputy City Clerk, City of Menomonie, Wisconsin

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Clerk-Treasurer, Village of Brooklyn, Wisconsin

Kristin LaBeree
City Clerk Treasurer, City of Glenwood, Wisconsin

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Diane Nelson
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Laura Reetz
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Clerk/Treasurer, Village of Mishicot, Wisconsin

Jeanne Rennie
Clerk, Town of Burlington, Wisconsin

Lynn Richardson
Deputy Clerk, Village of Waunakee, Wisconsin

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Kaija Snyder
Clerk, City of Menasha, Wisconsin

Sara Spencer
Clerk, Village of Salem Lakes, Wisconsin

Lorena Stottler
Clerk-Treasurer/Election Administrator, City of Janesville, Wisconsin

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Clerk/Treasurer, Town of Manitowish Waters, Wisconsin

Becky Tellier
Clerk-Treasurer, Village of Theresa, Wisconsin

Miriam Thomas
Clerk-Treasurer, Village of Oakfield, Wisconsin

Stacey Wiercinski
Clerk-Treasurer, City of Hurley, Wisconsin

Darlene Wulf
Clerk, Town of Harris, Wisconsin

Linda Ziegler
Clerk, Town of Townsend, Wisconsin