

# Wisconsin Institute for Liberty and Law: Asks Wisconsin Supreme Court to take challenge to absentee ballot drop boxes

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Attorneys filed emergency motion to bypass after Court of Appeals issued a stay  
The News: The Wisconsin Institute for Law & Liberty (WILL) filed an [emergency motion to bypass](#), asking the Wisconsin Supreme Court to hear [Teigen v. Wisconsin Elections Commission \(WEC\)](#), a case to determine the legal status of absentee ballot drop boxes and ballot harvesting. The case is currently on appeal at the Court of Appeals, District IV, which issued a temporary stay of a Waukesha Circuit Court decision that will allow the use of absentee ballot drop boxes for the February 15 primary election. WILL also requested the court vacate this stay.

The Quote: WILL President and General Counsel, Rick Esenberg, said, “Wisconsin voters, candidates, and election officials deserve certainty on the legal methods to cast an absentee ballot. We are hopeful the Wisconsin Supreme Court will hear this urgent matter.”

Background: WILL filed a [lawsuit](#) on behalf of two Waukesha County voters in June 2021 challenging the legal status of absentee ballot drop boxes after WEC issued [unlawful guidance](#) to clerks, in 2020, encouraging the use of absentee ballot drop boxes, and telling voters that others can return their ballot for them.

This advice was contrary to state law. Voting is a constitutional right, but [state law](#) makes clear that, “voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place.” There are just two legal ways in Wisconsin to submit an absentee ballot. When voting by absentee ballot, [state law](#) says “[t]he envelope [containing the ballot] shall be mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots.”

On January 13, Waukesha County Circuit Court Judge Michael Bohren issued a summary judgment decision that held that WEC’s guidance on absentee ballot drop boxes violates state law, and/or should have been adopted through the rulemaking process in Chapter 227. Further, Judge Bohren made clear that state law provides just two legal methods to cast an absentee ballot: through the mail or in-person at a clerk’s office.

This decision was appealed to the Court of Appeals where a stay was issued on January 24.