

Sam Liebert: Absentee voting is not a privilege, it is a core feature of free elections

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In [recent court filings](#), attorneys for the former Madison city clerk [advanced a troubling argument](#): that absentee voting is a *privilege*, not a right. They argued that once voters choose to cast an absentee ballot, those ballots exist in an administrative space where constitutional protections apply differently, if at all.

What we've witnessed here is legal creativity by the lawyers, but it is also dangerous rhetoric.

The argument suggests that because a voter *chose* to vote absentee, the government's obligations to that voter are diminished. If the ballot is mishandled, misplaced, or improperly processed, the harm is somehow less real than a ballot that suffers the same fate but was cast on Election Day at an assigned polling place. That framing should alarm anyone who cares about our freedoms and the elections that protect them. Our country makes a basic promise to voters: when they follow the rules, their votes will count.

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Wisconsin law explicitly allows for absentee voting. It is not a loophole, a courtesy, or an exception for a select few. It is a core method of participation used by hundreds of thousands of Wisconsinites. It is a necessary voting option for seniors, people with disabilities, rural voters, students, shift workers, parents juggling childcare, or people who simply prefer to vote from home.

Labeling absentee voting a “privilege” in this context would create a tiered structure of ballot protection in Madison, where in-person votes would be considered “real” and fully protected, while absentee ballots would be treated as something less.

That’s not how election law is supposed to work, and it’s not how voters experience elections in real life. Voters should only have to worry about whether their vote will be counted among the options given to them.

When the government’s response is “well, it depends on how you voted,” trust erodes.

Absentee voting is no longer marginal. In many Wisconsin elections, it accounts for a significant share of the electorate. In the 2024 general election, [more than 41 percent](#) of active voters in the Badger State cast absentee ballots, which marked a new state record. To suggest that those ballots are somehow more expendable undermines the legitimacy of elections before they even happen.

For several election cycles now, conspiracy theorists and election deniers have worked to delegitimize absentee voting. They have repeatedly attacked it to cause distrust in the system and try to throw out ballots from voters they don’t like. Courts, clerks, and election officials have spent years pushing back against those bogus claims, correctly pointing out that absentee ballots are lawful, reliable, and essential to accessible democracy.

Arguments like this from the former Madison city clerk give disinformation about absentee voting new oxygen.

Even if the court ultimately accepts this reasoning narrowly, the consequences extend far beyond a single case. When election jurisdictions argue that absentee ballots occupy a weaker constitutional space, it invites the public to draw the same conclusion. That is not a message any election official should want to advance.

As a former municipal clerk myself, I understand the pressures these officials face. Election administration is complex. Mistakes happen. But accountability is not the enemy of election administration; it is actually what sustains public confidence in it. Voters are far more forgiving of human error than they are of institutions that appear to dodge responsibility.

Absentee voting is not a “privilege” that voters gamble on at their own risk. It is a lawful method of participation in our democracy. Treating it otherwise weakens the shared understanding that every valid vote deserves to be counted and protected.

At a time when trust in elections is already under strain, that is a risk Wisconsin should not take.

- Sam Liebert is Wisconsin state director, All Voting is Local. In his personal capacity, Liebert sits on the board of Law Forward, a party to the referenced lawsuit. He joined after the lawsuit was filed and wrote this article in his capacity as the All Voting is Local Wisconsin state director.