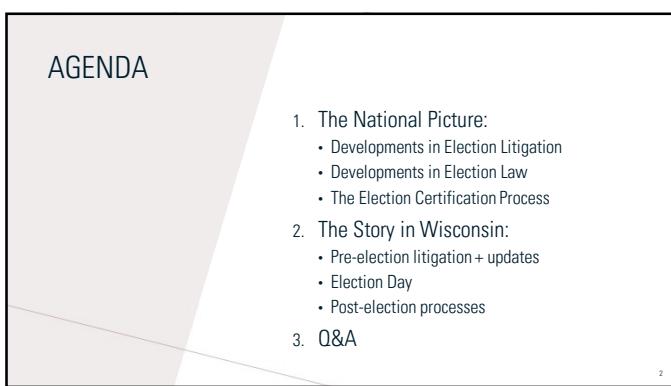




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A FLOOD OF ELECTION LITIGATION

- Record numbers of election-related cases around the country in recent years
 - Compare 2018 (226 cases) to 2022 (407 cases): an 80% increase
 - 543 cases in 2020
 - Recent litigation levels are 4 or 5 times what was seen a generation ago.
- A large and growing share of these cases—about 70% in 2022—are in state courts.

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Bloomberg

More Than 165 Lawsuits Are Already Shaping the 2024 US Presidential Election

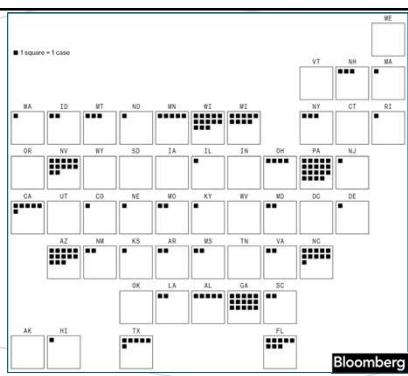
Pre-election fights preview an expected firestorm of legal challenges after the November vote

By Zoe Tillman and Raeedah Wahid
October 15, 2024

Sample Footer Text

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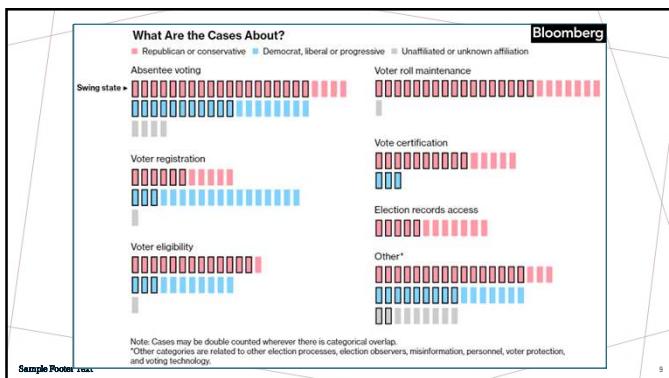
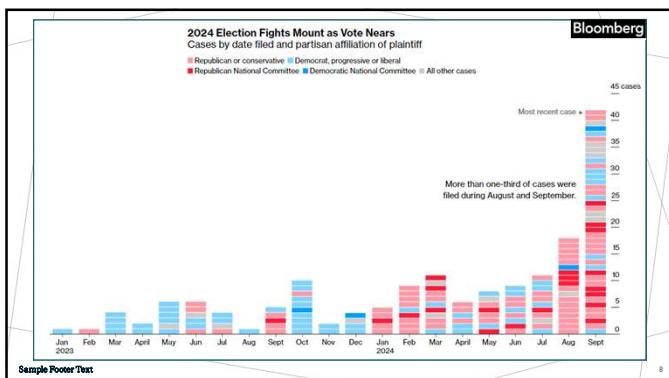
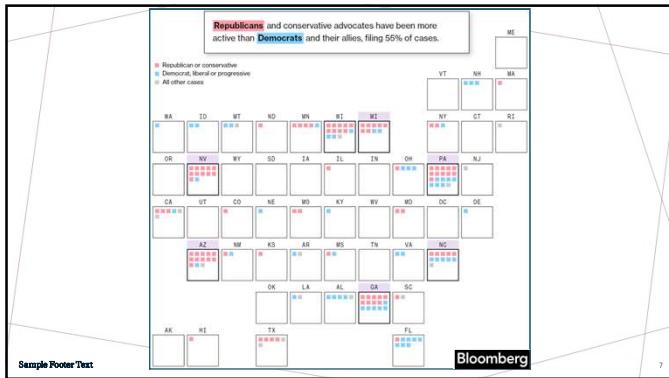
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Sample Footer Text

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A SURGE OF NEW ELECTION LAWS & POLICIES

- Since the 2020 election:
 - 78 restrictive voting laws in 30 states
 - 168 expansive laws in 41 states
- Myriad new administrative rules and regulations

States That Have Enacted Restrictive Voting Laws, 2021–24

Source: American Center analysis of publicly available data

10

ELECTION CERTIFICATION & THE ELECTORAL COUNT REFORM ACT

npr
Congress passes election reform designed to ward off another Jan. 6

UPDATED DECEMBER 23, 2022 - 3:44 PM ET ⓘ
By Miles Parks

USA TODAY
Congress made overturning elections harder, but there are still loopholes in the law
By Aysha Bagchi
USA TODAY
Published 8:01 a.m. ET Oct. 15, 2024 | Updated 12:54 p.m. ET Oct. 16, 2024

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ELECTION CERTIFICATION & THE ELECTORAL COUNT REFORM ACT

ELECTION DAY (2024)
5 NOV
State election procedures, including certifying all votes cast, must be completed by Election Day. This can take up to five weeks.

ELECTION CERTIFICATION DEADLINE
11 NOV
A state's election officials must submit a "certificate" to the U.S. House of Representatives by the 11th day of November. This is a "safe harbor" date for states to submit their electoral votes.

THE ELECTORAL COLLEGE
17 NOV
The electoral college will meet to cast their votes. Electors will cast one vote for president and one for vice president. The electors will then sign the certificates of the electoral votes for the candidates for president and vice president of each state or the district's popular vote.

THE JOINT SESSION OF CONGRESS
5 JAN
The U.S. House of Representatives and the U.S. Senate will convene to count each state's electoral votes and declare the election of the president.

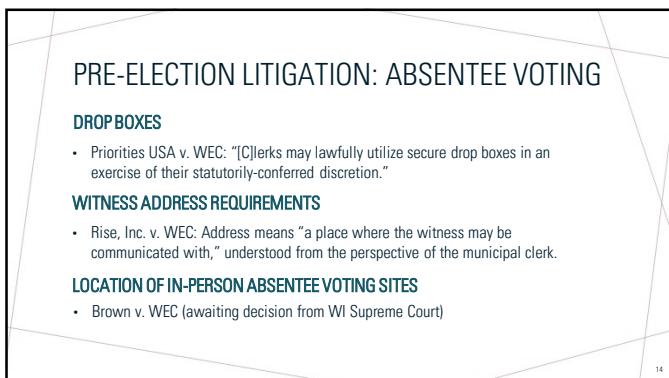
Source: Campaign Legal Center

Legend:
— Required step with date established by law
— Possible addition or step allowed by law
— Longer period of activity between key steps

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PRE-ELECTION LITIGATION: VOTER ROLLS

CHALLENGES TO REGISTRATION LIST

- Eucke v. WEC (filed Sept. 30, 2024); Oldenburg v. WEC (IV) (filed Oct. 3, 2024)

CITIZENSHIP DOCUMENTATION

- Cerny v. WEC (filed Aug. 16, 2024); Oldenburg v. WEC (II) (filed July 26, 2024)

ACCESS TO REGISTRATION LIST

- Wis. Voter Alliance v. Secord (awaiting decision); Public Interest Legal Foundation v. Wolfe (litigation ongoing)

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PRE-ELECTION LITIGATION: TBD

"The sender targeted young voters aged 18-25, including young staff members of the League of Women Voters of Wisconsin, and reached many voters who are part of the University of Wisconsin system."

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ELECTION DAY

POSSIBLE DISRUPTIONS TO VOTING

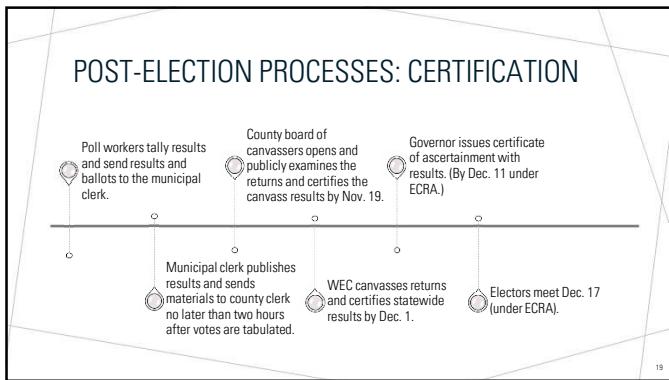
- Election observers
- Drop box surveillance or obstruction
- Emergencies

POSSIBLE REMEDIES

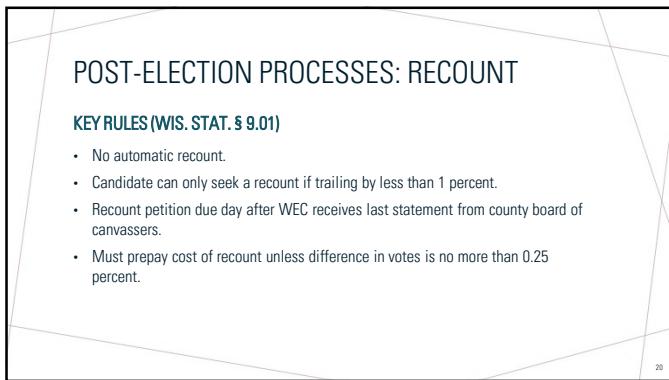
- Removing election observers
- Extending polling hours
- Moving polling locations

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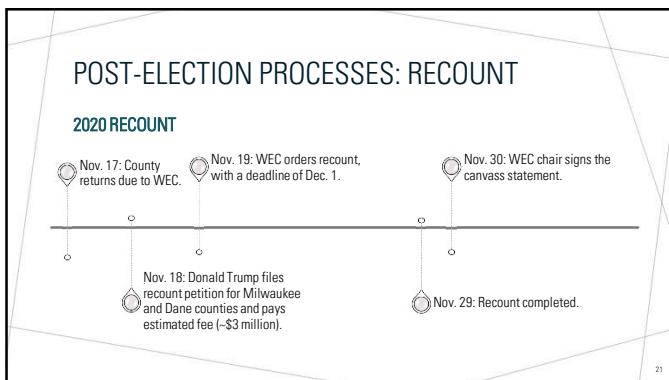
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POST-ELECTION PROCESSES: LITIGATION

- Any candidate aggrieved by the recount can appeal to circuit court. Wis. Stat. § 9.01(6).
- Litigation may not be resolved before electors meet.
- Trump v. Biden, 2020 W 91: “[Laches] is applied because the efficient use of public resources demands that a court not allow persons to gamble on the outcome of an election contest and then challenge it when dissatisfied with the results, especially when the same challenge could have been made before the public is put through the time and expense of the entire election process.”

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QUESTIONS?

Rob Yablon, Associate Professor, UW Law School,
Faculty Co-Director, State Democracy Research Initiative

Bryna Godar, Staff Attorney, State Democracy Research Initiative

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