

State of Wisconsin



2019 Assembly Bill 30

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2019 WISCONSIN ACT 123

AN ACT *to create* 20.625 (1) (h), 758.20 (3), 895.492 and 973.25 of the statutes; **relating to:** creating a procedure for granting certificates of qualification for employment for persons convicted of a crime and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.625 (1) (h) of the statutes is created to read:

20.625 (1) (h) *Certificates of qualification for employment.* All moneys received under s. 973.25 (4) (a) for general program operations of the circuit courts.

SECTION 2. 758.20 (3) of the statutes is created to read:

758.20 (3) The director of state courts shall ensure the Wisconsin Circuit Court Access Internet site provides the department of corrections access to the information required to complete the report under s. 973.25 (8).

SECTION 3. 895.492 of the statutes is created to read:
895.492 Civil liability exemption; certificate of qualification for employment. (1) In this section:

(a) "Employee" has the meaning given in s. 101.01 (3) and also includes a former employee.

(b) "Employer" has the meaning given in s. 101.01 (4).

(2) An employer who hires an employee who has been issued a certificate of qualification for employment under s. 973.25 is immune from liability for the intentional acts or omissions of the employee, acts of the employee that are outside of the course of the employee's

employment, and in any proceeding on a claim against the employer for negligent hiring, retention, training, or supervision of the employee unless the employer, when he or she hired the employee, acted maliciously towards the plaintiff or with intentional disregard of the rights of the plaintiff.

SECTION 4. 973.25 of the statutes is created to read:
973.25 Certificates of qualification for employment. (1) **DEFINITIONS.** In this section:

(a) "Certificate of qualification for employment" means a certificate issued by the council on offender employment that provides an offender with relief from a collateral sanction, except that it does not provide relief from s. 48.685 (5m), 50.065 (4m), or 111.335 (3) (a), (b), (c), or (e) or (4) (h) or (i).

(b) "Collateral sanction" means a penalty, ineligibility, disability, or disadvantage that is related to employment or to occupational licensing or certification and that is a result of the offender's criminal record. "Collateral sanction" does not include confinement in a jail or prison; probation, parole, or extended supervision; suspension or revocation of motor vehicle operating privileges; imposition of a forfeiture, fine, or assessment; costs of prosecution; or an order to pay restitution.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(c) "Offender" means a person who has been convicted of a crime other than a violent crime, as defined in s. 165.84 (7).

(2) COUNCIL ON OFFENDER EMPLOYMENT. The director of state courts shall provide forms for use in filing an application for a certificate of qualification for employment and shall convene a council on offender employment that shall review applications for certificates of qualification for employment. The council shall consist of the following 3 members: the attorney general, or his or her designee; the state public defender, or his or her designee; and the chairperson of the parole commission, or his or her designee. The council shall have the powers, duties, and responsibilities set forth in this section.

(3) ELIGIBILITY. An offender who has been released from confinement may apply for a certificate of qualification for employment under this section if any of the following applies:

(a) He or she has served at least 24 consecutive months of a term of confinement in prison in the Wisconsin state prisons.

(b) He or she has served at least 12 consecutive months of a term of confinement in prison in the Wisconsin state prisons and at least 12 consecutive months of a term of extended supervision under s. 302.113.

(4) PROCEDURE. (a) An offender may file an application for a certificate of qualification for employment to the council on offender employment on a form to be provided by the director of state courts along with an application fee of \$20 that shall be deposited in the appropriation under s. 20.625 (1) (h). The council may waive the fee if the offender submits an affidavit along with the application in which he or she swears or affirms that he or she is unable to pay the application fee.

(b) After receiving an application under par. (a), the council on offender employment shall request from the department of corrections and the department shall provide to the council all of the following information about the offender:

1. His or her highest level of education.
2. Any treatment he or she has completed.
3. Any performance evaluations for his or her work.
4. Any risk and needs assessment reports.
5. Any other reports of information gathered during the normal course of business, as requested by the council.

(c) Within 60 days after receiving the information requested under par. (b), the council on offender employment shall issue an order granting or denying the offender's request for a certificate of qualification for employment.

(5) GRANTING OF CERTIFICATE; EXCEPTIONS. The council on offender employment shall grant an offender's application for a certificate of qualification for employment if the council finds that the offender is not likely to pose a risk to public safety, that the certificate will substantially assist the offender in obtaining employment or occupational licensing or certification, and that the offender is less likely to commit an additional criminal offense if he or she obtains a certificate of qualification for employment.

(6) REVOCATION OF CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT. (a) If an offender is convicted of a felony or of a Class A or Class B misdemeanor after he or she is issued a certificate of qualification for employment, or if his or her probation, parole, or extended supervision is revoked for the commission of a crime, the court shall permanently revoke a certificate of qualification for employment issued under sub. (5).

(b) The court may not revoke an offender's certificate of qualification for employment as a sanction for the offender's commission of an act or offense that is a violation of a condition of the offender's probation, parole, or extended supervision that is not a crime, or if the offender's probation, parole, or extended supervision is revoked as a result of the offender's commission of a noncriminal act.

(7) ADMISSIBILITY OF A CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT IN A FAIR EMPLOYMENT PROCEEDING. A certificate of qualification for employment issued under sub. (4) (c) is not admissible as evidence in a proceeding alleging an act of discrimination on the basis of conviction record under subch. II of ch. 111.

(8) DATA COLLECTION; REPORT TO LEGISLATURE. The department of corrections shall prepare an annual report that includes, for each year, the number of applications that are received under this section, the number of certificates of qualification for employment that are issued, and the number of certificates of qualification for employment that are revoked and the reasons for revocation. The department shall submit the report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2).