

# Alberta Darling

## Wisconsin State Senator

Co-Chair, Joint Committee on Finance

### Reduce Incarceration, Secure Employment (RISE) Act

Testimony on Senate Bill 34

Senate Committee on Judiciary and Public Safety

August 14, 2019

Thank you Chair Wanggaard and members of the Senate Committee on Judiciary and Public Safety for hearing this bill. Senate Bill 34 takes Wisconsin a step forward in reducing its recidivism rate and provides the opportunity for ex-offenders who have paid their debt to society find gainful employment.

Occupational licensure is one of the biggest impediments to those wishing to join the skilled workforce. More than a quarter of workers in the United States need a government certification to work in their field. Up from just 5% in 1950, Wisconsin currently regulates 166 professions. This barrier is documented across the political spectrum from the Obama Administration and the Institute for Justice and Mercatus Center. Occupational licensure creates significant barriers for some individuals into a wide variety of professions. These barriers reduce competition and top some of our most vulnerable citizens from gaining employment in well-paying professions that boost Wisconsin's economy, increase the tax base, and support family-supporting jobs. Access to well-paying jobs helps people succeed.

SB 34  
DW

skilled workforce. More than a quarter of workers in the United States need a government certification to work in their field. Up from just 5% in 1950, Wisconsin currently regulates 166 professions. This barrier is documented across the political spectrum from the Obama Administration and the Institute for Justice and Mercatus Center. Occupational licensure creates significant barriers for some individuals into a wide variety of professions. These barriers reduce competition and top some of our most vulnerable citizens from gaining employment in well-paying professions that boost Wisconsin's economy, increase the tax base, and support family-supporting jobs. Access to well-paying jobs helps people succeed.

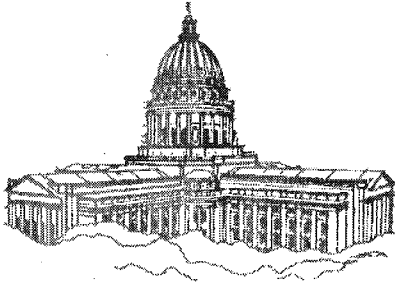
Collateral sanctions of criminal convictions add another barrier for ex-offenders. These sanctions include certain occupational licensing restrictions and other measures that close the door to potential employment for thousands of formerly incarcerated people in Wisconsin every year. A Certification of Qualification for Employment (CQE) will help alleviate those barriers for ex-offenders convicted of non-violent crimes. A CQE waives certain restrictions relating to applying for occupational licenses and signal to employers that the individual is ready for employment.

This bill creates the Council on Offender Employment to review applications for CQEs made up of the Parole Commissioner, State Public Defender, and Attorney General or their designees, and is housed in the Director of State Courts Office. Ex-offenders can apply to the council upon release from confinement if they have served at least 24 months, or if they have served 12 months of confinement and at least 12 months of extended supervision. The Department of Corrections will provide the information about applicants, including the ex-offender's highest level of education, treatment completed, work evaluations, and risk assessment reports, necessary for the council to make informed decisions. If the council concludes the applicant (1) would not likely pose a risk to public safety, (2) would assist the offender in obtaining employment or certification, and (3) that the offender would be less likely to reoffend if granted the certificate, then they must grant it.

A CQE is not a golden ticket. There are still restrictions. For instance the CQE would still not apply to certain facilities—i.e. childcare centers, some healthcare facilities—where our most vulnerable populations could be at risk. A CQE does not apply to jobs substantially related to the applicant's crime. For example, someone convicted of accounting fraud could not use the CQE to get a CPA license. Those who committed certain offenses, particularly those involving violent or sexual crimes, would not be eligible to apply under the bill. Employers hiring a person possessing a CQE would have limited immunity from civil liability for acts committed by the employee.

CQEs will help move the ball forward by simultaneously reducing recidivism, expanding Wisconsin's workforce, and reducing correctional costs.

I want to thank my colleague Representative Hutton for his leadership on this issue and thank you committee members for taking the time to hear this bill. I urge you to support Senate Bill 34.



# LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

## Senate Committee on Judiciary and Public Safety

### Public Hearing SB 34

### Testimony of State Senator Lena C. Taylor

August 14, 2019

Chairman Wanggaard, Vice-Chair Jacque, and Members of the Committee, thank you for providing me the opportunity to submit written testimony on SB 34, relating to creating a procedure for granting certificates of qualification for employment for persons convicted of a crime and making an appropriation.

In Wisconsin, thousands of people have a misdemeanor or felony conviction that prevents them from gaining employment in many industries. Yet, during periods of low unemployment, we have workforce challenges and shortfalls. Connecting residents to employment has become more critical than ever, and a CQE, Certificate of Qualification for Employment, is a way to get that done. Through this certificate model, we have an ability to positively impact the re-entry success for individuals with a criminal background. All too often, we know employers are slow to hire these residents and the reasons are frequently two-fold.

First, people with a criminal background need an opportunity to get their foot in the door, upon release from prison. As opposed to constantly putting in place barriers to returning people to both society and the tax rolls, this bill gives formerly incarcerated individuals a chance to be judged on the merit of their experience or ability to do a job and not their record.

The second thing a CQE does is give employers a degree of legal protection regarding negligent hiring lawsuits or claims. In the states that have done this, it has created a workforce pipeline that has gone untapped and enabled employers to move forward with confidence.

The CQE is an additional tool to incentivize incarcerated individuals to engage in positive and productive programming prior to release. I am hopeful you will see the merits in SB 34 and support this bill.

Thank you for your attention.

# Rob Hutton

---

STATE REPRESENTATIVE • 13<sup>TH</sup> ASSEMBLY DISTRICT

August 14, 2019

To: The Senate Committee on Judiciary and Public Safety  
From: Rep. Rob Hutton  
Re: Senate Bill 34

## **Testimony of Rep. Rob Hutton in Support of Senate Bill 34**

Thank you Chairman Wanggaard and the Committee on Judiciary and Public Safety for hearing SB 34 today.

Criminal justice, victims, public safety, recidivism, and re-entry are all major topics across the nation and here in Wisconsin. Over the past decade we have seen many reforms in each of these areas to help protect victims and help set up offenders for successful re-entry into the community. One of the many factors to a successful re-entry is gaining employment which leads to income to support the individual, their family, and pay any restitution to the community and victim.

SB 34 creates a Council on Offender Employment whose responsibility is to issue a certificate of qualification for employment (CQE) to an offender, re-entering the community, which meets certain requirements. If the council, consisting of the Attorney General, State Public Defender, and Chairperson of the Parole Commission, finds that the offender is not likely to pose a risk to public safety, that the CQE will substantially assist them in finding employment, and that they are less likely to commit an additional offense, they must be granted a CQE. These determinations are to be based on information supplied by DOC regarding the offender's time incarcerated and on extended supervision.

The purpose of the CQE is to provide a tangible document demonstrating the efforts the offender has put into training and recovery for employers or to occupational license boards. Further, a CQE alleviates some of the risk an employer takes by hiring an ex-offender. The bill provides limited immunity from civil liability for employers who hire someone with a CQE. The employer would be immune from liability for the acts or omissions of the employee unless the employer acted maliciously, with gross negligence, or with intent to cause harm when hiring the employee.

We want to create an atmosphere that encourages and protects employers and allows for meaningful employment for those willing to make the effort to better their lives. Additionally, we want to cut through barriers to employment in occupational licensing by providing a chance to those whose calling is in one of these many professions. A criminal record often brings many restrictions that prevent that individual from participating in a licensed profession whether the crime was relevant to the job or not. A CQE will afford offenders the opportunity to apply for the license while still leaving control of issuance to DSPS.

Thank you again for the opportunity to testify. I look forward to answering any questions you may have.



# Wisconsin State Public Defender

17 S. Fairchild St. - 5<sup>th</sup> Floor  
PO Box 7923 Madison, WI 53707-7923  
Office Number: 608-266-0087 / Fax Number: 608-267-0584  
[www.wispd.org](http://www.wispd.org)

**Kelli S. Thompson**  
State Public Defender

**Jon Padgham**  
Deputy State  
Public Defender

---

Senate Committee on Judiciary & Public Safety  
Senate Bill 34  
Wednesday, August 14, 2019

Good morning Chairman Wanggaard and members,

Thank you for holding this hearing on Senate Bill (SB) 34 which creates a process to grant certificates of qualification for employment. This bill is an important step in the effort to reintegrate people into society post-incarceration. It will help to address some of the collateral consequences of conviction which can create a significant barrier to the employability of these individuals.

As a member of the 2017 Legislative Council Study Committee on Reducing Recidivism and Removing Impediments to Ex-Offender Employment, Co-Chaired by Representative Hutton and Senator Darling, we looked at the issue of access to employment. What we heard was that many people would be employable but for specific barriers imposed as a result of their conviction.

The State Public Defender's office wrote a book on the impact of collateral consequences of criminal conviction. A full inventory can be found online at <https://niccc.csgjusticecenter.org/>. There are hundreds of ways that a conviction can impose barriers to employment that most people would not intuitively guess. For example, a conviction for any misdemeanor crime creates a mandatory and permanent ban on becoming licensed to give hay or sleigh rides.

SB 34 creates a process to look at each individual's case and provide an ability to lift some of these collateral consequences to reduce the barriers so that people can find employment, a key factor in reducing recidivism going forward. With over 95% of the population of Wisconsin's correctional facilities expected to return to society, the ability to ensure that they can return as productive members of society is vital.

SB 34 is set up to test the potential benefits of this process while allowing for future expansion in terms of eligibility and impact. SPD is included as a member of the Council on Offender Employment which would be the body to review each applicant on their individual merits and potentially grant relief from collateral consequences. We appreciate the authors having included us on this council and anticipate that we will be able to participate without additional funding or staffing based on the scope of the Council's duties under SB 34.

Thank you again to the authors and this committee for having a hearing on this important legislation. We look forward to the committee's support of Senate Bill 34 moving forward.