



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4683/1  
JAM/MIM/MJW:wlj

## 2023 ASSEMBLY BILL 1079

February 12, 2024 - Introduced by Representatives VOS and PETERSEN, cosponsored by Senators WANGGAARD, BALLWEG and TESTIN. Referred to Committee on Veterans and Military Affairs.

**AN ACT** *to repeal* 45.61 (2) (am), 45.61 (2) (b), 45.61 (2) (c) (intro.), 45.61 (2) (c) 3., 45.61 (2) (e), 45.61 (5) (b), 230.212 and 322.120 (3) (a) 2.; *to renumber and amend* 45.61 (5) (a); *to amend* 16.53 (1) (d) 1., 45.61 (2) (a), 45.61 (2) (c) 1., 45.61 (2) (c) 2., 45.61 (2) (d), 45.61 (3), 45.61 (4) (a) and 230.05 (7); and *to create* 16.53 (1) (d) 5. and 230.212 of the statutes; **relating to:** employment of direct-care employees by veterans homes, eligibility for burial in veterans cemeteries, and elements of sexual assault under the Wisconsin Code of Military Justice.

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*Analysis by the Legislative Reference Bureau*

***Employment at veterans homes***

Under current law, the director of the Bureau of Merit Recruitment and Selection in the Division of Personnel Management in the Department of Administration administers the state civil service program and the competitive selection procedures. Generally, applicants for positions in the classified service must provide an application and resume, which are rated and determine whether

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an applicant will be interviewed for a position. Applicants are then interviewed by a panel of individuals. This bill eliminates those requirements for applicants for nonsupervisory positions providing direct care to residents of veterans homes. The bill also allows veterans homes to fill positions for nurses, nurse aides, medical assistants, and dietitians without using the civil service procedure if the applicant graduates from an institution of higher education in this state or completes an approved instructional or training program in this state, the offer of employment is made before the applicant graduates or completes the instructional or training program, and the offer of employment is contingent upon graduation or successful completion of the instructional training program and eligibility for licensure or certification, where applicable.

Under current law, the director must certify a register for vacant positions in the state civil service within 30 days after a state agency requests to have a position vacancy announced. The bill reduces that period to seven days for vacant permanent positions at a veterans home. Also, under current law, the general term of eligibility on a register is six months, after which the register expires. The bill requires the director to maintain the register of certified eligible applicants for vacant permanent positions at veterans homes until notified by the Department of Veterans Affairs that the agency no longer needs the register.

Under the bill, the provisions described above sunset on January 1, 2029.

***Wisconsin veterans cemetery eligibility requirements***

The bill changes an eligibility requirement for an individual to be buried in one of the state veterans cemeteries. Under current law, an individual who was discharged under other than dishonorable conditions must have been a Wisconsin resident in order to be eligible for burial in one of the state veterans cemeteries. In select cases, children and spouses of eligible veterans must also be Wisconsin residents in order to be buried in a state veterans cemetery. The bill removes the Wisconsin residency eligibility requirements in determining whether an individual or his or her spouse or children may be buried in a state veterans cemetery. The bill also directs from which appropriation account some eligible individuals' burial expenses may be paid.

***Sexual assault under the Wisconsin Code of Military Justice***

Under article 120 of the Wisconsin Code of Military Justice, a person is guilty of sexual assault if he or she commits a sexual act upon another person by doing any of the following: threatening or placing that other person in fear; causing bodily harm to that other person; making a fraudulent representation that the sexual act serves a professional purpose; or inducing a belief by any artifice, pretense, or concealment that the person is another person.

The bill modifies the elements of sexual assault under the WCMJ to align with the elements of the offense under the Uniform Code of Military Justice. Specifically, the bill removes "causing bodily harm to that other person," consistent with the UCMJ.

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2023 Wisconsin Act 47 contained Joint Legislative Council prefatory notes that stated that the “causing bodily harm to that other person” provision in article 120 was repealed by the act, and the drafting file for the act indicates that the repeal was intended in order to be consistent with the UCMJ. However, the repeal of s. 322.120 (3) (a) 2., stats., was inadvertently not included in the act. The bill repeals that provision.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

**SECTION 1.** 16.53 (1) (d) 1. of the statutes is amended to read:

16.53 (1) (d) 1. The secretary, with the approval of the joint committee on employment relations, shall fix the time and frequency for payment of salaries due elective and appointive officers and employees of the state. As Except as provided in subd. 5., as determined under this subdivision, the salaries shall be paid either monthly, semimonthly or for each 2-week period.

**SECTION 2.** 16.53 (1) (d) 5. of the statutes is created to read:

16.53 (1) (d) 5. Beginning on January 1, 2025, at the request of the employee, the salary for an employee who provides direct care to residents of a veterans home, as defined in s. 45.01 (12m), shall be paid on a weekly basis.

**SECTION 3.** 45.61 (2) (a) of the statutes is amended to read:

45.61 (2) (a) A person who died while on active duty or who was discharged or released from active duty in the U.S. armed forces under conditions other than dishonorable ~~and who was a resident of this state at the time of his or her entry into active service~~ and his or her dependent child and surviving spouse.

**SECTION 4.** 45.61 (2) (am) of the statutes is repealed.

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**SECTION 5.** 45.61 (2) (b) of the statutes is repealed.

**SECTION 6.** 45.61 (2) (c) (intro.) of the statutes is repealed.

**SECTION 7.** 45.61 (2) (c) 1. of the statutes is amended to read:

45.61 (2) (c) 1. ~~Is~~ The spouse or dependent child of a person who is serving on active duty at the time of the spouse's or dependent child's death ~~if the person was a resident of this state at the time of his or her entry or reentry into active service.~~

**SECTION 8.** 45.61 (2) (c) 2. of the statutes is amended to read:

45.61 (2) (c) 2. ~~Was a resident of this state at the time of his or her entry or reentry into active service and~~ The spouse of a person who was discharged or released from active duty in the U.S. armed forces under honorable conditions.

**SECTION 9.** 45.61 (2) (c) 3. of the statutes is repealed.

**SECTION 10.** 45.61 (2) (d) of the statutes is amended to read:

45.61 (2) (d) A person who ~~was a resident of this state at the time of his or her entry or reentry into service~~ served in any a national guard or a reserve component of the U.S. armed forces ~~or who was a resident of this state for at least 12 consecutive months immediately preceding his or her death,~~ and the person's spouse, surviving spouse, and dependent children, if the person is eligible for burial in a national cemetery under 38 USC 2402.

**SECTION 11.** 45.61 (2) (e) of the statutes is repealed.

**SECTION 12.** 45.61 (3) of the statutes is amended to read:

45.61 (3) FEES AND COSTS. The department may charge a fee for burials under this section and may promulgate rules for the assessment of any fee. The cost of preparing the grave and the erection of a marker for a person described under

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sub. (2) (a), ~~(b)~~, or (d), ~~or (e)~~ shall be paid from the appropriation under s. 20.485 (1) (gk).

**SECTION 13.** 45.61 (4) (a) of the statutes is amended to read:

45.61 (4) (a) Application for burial shall be made to the department. The surviving spouse of the person described under sub. (2) (a), ~~(b)~~, or (d), ~~or (e)~~, if that person is interred at the Central Wisconsin Veterans Memorial Cemetery, shall have the privilege of selecting a plot next to that person if available. The department shall hold the plot for the surviving spouse for a period of one year from the date of granting the privilege, but may extend the hold, on request, for additional one-year periods.

**SECTION 14.** 45.61 (5) (a) of the statutes is renumbered 45.61 (5) and amended to read:

45.61 (5) Expenses incident to the burial under this section of persons described in sub. (2) ~~(a) and (b) to (e)~~ shall be paid from the estate of the decedent, except that if there is no estate or the estate is insufficient, the expense of burial, or necessary part of the burial, shall be paid from the appropriation accounts under s. 20.485 (4) (g), (m), or (q) or, for members of veterans homes, from the appropriation account under s. 20.485 (1) (gk) for members of veterans homes, and the. The amount expended for those expenses under this subsection shall not exceed the amount established for funeral and burial expenses under s. 49.785 (1) (b).

**SECTION 15.** 45.61 (5) (b) of the statutes is repealed.

**SECTION 16.** 230.05 (7) of the statutes is amended to read:

230.05 (7) The Except as provided in s. 230.212 (1), the director shall use

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techniques and procedures designed to certify eligible applicants to any vacant permanent position within 30 days after the filing of an appropriate request by an appointing authority.

**SECTION 17.** 230.05 (7) of the statutes, as affected by 2023 Wisconsin Act ... (this act), is amended to read:

230.05 (7) ~~Except as provided in s. 230.212 (1), the~~ The director shall use techniques and procedures designed to certify eligible applicants to any vacant permanent position within 30 days after the filing of an appropriate request by an appointing authority.

**SECTION 18.** 230.212 of the statutes is created to read:

**230.212 Veterans homes recruiting.** (1) The director shall use techniques and procedures designed to certify eligible applicants to any vacant permanent position at a veterans home, as defined in s. 45.01 (12m), within 7 days after the filing of an appropriate request from the department of veterans affairs. Notwithstanding s. 230.25 (3), the director shall maintain a register of certified eligible applicants for veterans homes until notified by the department of veterans affairs that the department no longer needs that register of certified eligible applicants.

(2) The director shall allow a veterans home, as defined in s. 45.01 (12m), to fill permanent vacant positions for nurses, nurse aides, medical assistants, and dietitians who are graduates of an institution of higher education or completed an instructional or training program in this state without using the procedures established under this subchapter if all of the following apply:

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(a) The offer of employment is made before the individual graduates from the institution of higher education or completes a training or instructional program.

(b) For a nursing position, the individual is eligible to be licensed under ch. 441.

(c) For a nurse aide position, the instructional program the individual completed was approved under s. 146.40 (3) or (3g).

(d) For a medical assistant position, the training program the individual completed was accredited by the National Commission for Certifying Agencies, a national medical association, or a state medical association.

(e) For a dietitian position, the individual is eligible to be certified under subch. V of ch. 448.

(e) The offer of employment is contingent upon graduation or successful completion of a training program.

(3) Notwithstanding s. 230.16, the director shall exempt from rating panels and interview panels any applicant for a position that is not supervisory and that provides direct care to a resident of a veterans home, as defined in s. 45.01 (12m).

**SECTION 19.** 230.212 of the statutes, as created by 2023 Wisconsin Act .... (this act), is repealed.

**SECTION 20.** 322.120 (3) (a) 2. of the statutes is repealed.

**SECTION 21. Effective dates.** This act takes effect on the day after publication, except as follows:

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**SECTION 21**

(1) The treatment of s. 230.05 (7) (by SECTION 17) and the repeal of s. 230.212 take effect on January 1, 2029.

**(END)**