

# State of Wisconsin



2017 Assembly Bill 943

Date of enactment: April 16, 2018  
Date of publication\*: April 17, 2018

## 2017 WISCONSIN ACT 274

AN ACT *to amend* 102.475 (1), 230.45 (1) (d), 321.65 (3) (a) (intro.), 321.65 (3) (a) 1., 321.65 (3) (a) 4. and 321.65 (3) (f) 1.; and *to create* 20.465 (1) (dm), 321.67 and 321.68 of the statutes; **relating to:** reemployment rights, death benefits, and continuation pay benefits of national guard and state defense force members on state active duty and making an appropriation.

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

**SECTION 1.** 20.465 (1) (dm) of the statutes is created to read:

20.465 (1) (dm) *Death gratuity.* A sum sufficient to defray all expenditures for payment of the death gratuity under s. 321.67.

**SECTION 2.** 102.475 (1) of the statutes is amended to read:

102.475 (1) **SPECIAL BENEFIT.** If the deceased employee is a law enforcement officer, correctional officer, fire fighter, rescue squad member, or diving team member, ~~national guard member or state defense force member on state active duty as described in s. 102.07 (9)~~ or if a deceased person is an employee or volunteer performing emergency management activities under ch. 323 during a state of emergency or a circumstance described in s. 323.12 (2) (c), who sustained an accidental injury while performing services growing out of and incidental to that employment or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a sum equal to 75 percent of the primary death benefit as of the date of death, but not less than

\$50,000 to the persons wholly dependent upon the deceased. For purposes of this subsection, dependency shall be determined under ss. 102.49 and 102.51.

**SECTION 3.** 230.45 (1) (d) of the statutes is amended to read:

230.45 (1) (d) Hear appeals under ~~s. ss.~~ ss. 230.36 (4) and 321.68 (4).

**SECTION 4.** 321.65 (3) (a) (intro.) of the statutes is amended to read:

321.65 (3) (a) *Prerequisites.* (intro.) Subject to par. (d), any person who is ~~a resident of this state and~~ absent from a position of employment because of active state service is entitled to the reemployment rights and benefits specified in this section if all of the following apply:

**SECTION 5.** 321.65 (3) (a) 1. of the statutes is amended to read:

321.65 (3) (a) 1. Except as provided in par. (b), the person ~~or an appropriate officer in the national guard of this or another state or the state defense force~~ has given advanced notice of the active state service to the person's employer.

**SECTION 6.** 321.65 (3) (a) 4. of the statutes is amended to read:

\* 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."

321.65 (3) (a) 4. In the case of active state service in the national guard in this or another state or territory of the United States or the state defense force, the active state service has not been terminated under other than honorable conditions.

**SECTION 7.** 321.65 (3) (f) 1. of the statutes is amended to read:

321.65 (3) (f) 1. A person who submits an application for reemployment under par. (e) 2. or 3. must, on the request of the person's employer, provide to the employer documentation to establish that the application was submitted within the time limits specified in par. (e) 2. or 3., that the person's cumulative length of all absences from employment with the employer because of active state service and federal active duty does not, except as permitted under par. (c), exceed 5 years, and, in the case of active state service in the national guard in this or another state or territory of the United States or the state defense force, that the person's service was not terminated under other than honorable conditions.

**SECTION 8.** 321.67 of the statutes is created to read:

**321.67 Death gratuity; national guard and state defense force.** If a national guard member or state defense force member dies from an accidental injury while performing services growing out of and incidental to the member's employment while the member is on state active duty, the department shall voucher and pay from the appropriation under s. 20.465 (1) (dm) an amount equal to \$100,000, to the member's designated beneficiary.

**SECTION 9.** 321.68 of the statutes is created to read:  
**321.68 Continuation of payment.** (1) In this section, "injury" means a mental or physical harm.

(2) The department of administration shall administer this section in the same manner it administers s. 230.36.

(3) (a) If a member of the national guard or state defense force suffers injury in the performance of his or her duties while on state active duty, the member shall continue to be fully paid under s. 321.35 or 321.51 upon the same basis as paid prior to the injury.

(b) The full pay under par. (a) shall continue while the member is unable to return to active duty as the result of the injury or until the termination of his or her state active duty. At any time during the member's period of disability the department may, at the department's expense, order physical or medical examinations to determine the degree of disability.

(4) A member denied benefits under this section may appeal to the employment relations commission under s. 230.45 (1) (d).

(5) The department is entitled to the right of subrogation for payments made under this section to the same extent an employing agency is entitled to the right of subrogation under s. 230.36 (5).

**SECTION 10. Initial applicability.**

(1) **DISABILITY OR DEATH PAYMENTS.** The treatment of sections 321.67 and 321.68 of the statutes first applies to an injury occurring on the effective date of this subsection.