
Wisconsin Legislative Council

ACT MEMO



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2019 Wisconsin Act 123
[2019 Assembly Bill 30]

**Certificates of Qualification
For Employment**

2019 WISCONSIN ACT 123

Act 123 establishes a process for a person who has been convicted of a crime, other than a violent crime, to apply for a certification of qualification for employment (CQE). A CQE is a certificate that provides an offender with relief from collateral sanctions, subject to certain exceptions.

As defined in the act, a “collateral sanction” is a penalty, ineligibility, disability, or disadvantage related to employment or occupational licensing or certification and that is a result of the offender’s criminal record. A CQE does not protect an offender against confinement in jail or prison; probation, parole, or extended supervision; suspension or revocation of driving privileges; imposition of a forfeiture, fine, or assessment; costs of prosecution; or an order to pay restitution.

Application Process

Under the act, a CQE is issued by the Council on Offender Employment. The council consists of the attorney general, the state public defender, and the chairperson of the parole commission, or the designee of any of these officials. An offender may apply to the council for a CQE if the offender meets either of the following:

1. The offender has served at least 24 consecutive months of a term of confinement in prison in the Wisconsin state prisons.
2. The offender 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.

An offender may apply for a CQE by filing an application with the Council on Offender Employment and submitting a \$20 fee. The council may waive the fee if the offender submits an affidavit affirming that he or she is unable to pay the fee.

After a qualifying offender files a CQE application, the Council on Offender Employment must request certain information from the Department of Corrections (DOC). DOC must provide the following to the council: (a) the offender’s highest level of education; (b) any treatment the offender has completed; (c) any performance evaluations for the offender’s work; (d) any risk and needs assessment reports; and (e) any other reports of information gathered during the normal course of business, as requested by the council.

Issuance and Revocation

The act requires the Council on Offender Employment to grant an offender’s CQE application if it makes certain findings. Specifically, the council must grant a CQE if it finds that: (a) the offender is not likely to pose a risk to public safety; (b) the CQE will substantially assist the offender in obtaining employment or occupational licensing or certification; and (c) the offender is less likely to commit an

additional crime if he or she obtains a CQE. The council must issue an order granting or denying an offender's CQE request within 60 days of receiving information from DOC.

A court must permanently revoke an offender's CQE if the offender commits almost any new crime. Specifically, the court must revoke if the offender is convicted of a felony or a Class A or Class B misdemeanor, or if the offender's probation, parole, or extended supervision is revoked for the commission of a crime. However, the court cannot revoke an offender's CQE as a sanction for committing a violation of a condition of the offender's probation, parole, or extended supervision that is not a crime, or if the offender is revoked as a result of a noncriminal act.

Civil Immunity for Employers

Under the act, an employer who hires an employee with a CQE is immune from civil liability for certain acts by that employee. An employer is immune from liability for the intentional acts or omissions of the employee and any acts of the employee outside the course of the employee's employment. An employer is also immune from liability in any proceeding on a claim against the employer for negligent hiring, retention, training, or supervision of the employee. However, the immunity does not apply if the employer acted maliciously towards the plaintiff or with intentional disregard of the rights of the plaintiff when he or she hired the employee holding a CQE.

Additionally, a CQE is not admissible as evidence in a proceeding alleging a claim of employment discrimination based on conviction record.

Annual CQE Report

The act requires DOC to prepare an annual report that includes, for each year, the number of CQE applications, the number of CQEs issued, and the number of CQEs revoked and the reasons for revocation. DOC must submit the report to the Legislature.

Effective date: March 5, 2020

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