



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0798/1

RAC:kjf:rs

## 2009 ASSEMBLY BILL 199

April 7, 2009 – Introduced by Representatives SUDER, SPANBAUER, MONTGOMERY, MURSAU, A. OTT, HINTZ, BIES and KAUFERT, cosponsored by Senator LASSA. Referred to Committee on Corrections and the Courts.

1        **AN ACT** *to amend* 40.02 (48) (c); and *to create* 40.02 (17) (n), 40.02 (17) (p), 40.02  
2            (17) (pm), 40.02 (17) (pt), 40.02 (17) (pz), 40.02 (48) (bc), 40.02 (48) (bd), 40.02  
3            (48) (bdm), 40.02 (48) (bdp), 40.02 (48) (bdt), 40.65 (4vm), 40.65 (4vn), 40.65  
4            (4vr), 40.65 (4vs) and 40.65 (4w) of the statutes; **relating to:** classifying  
5            members of the Parole Commission; psychologists and corrections  
6            classification specialists employed by the Department of Corrections who  
7            perform duties related to sexually violent person commitments; clerical  
8            employees employed at probation, extended supervision, and parole offices; and  
9            state employees who are employed at state correctional institutions, juvenile  
10            correctional facilities, the mental health institutes at Mendota and Winnebago,  
11            the Wisconsin Resource Center, and secure mental health units or facilities for

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1 sexually violent persons as protective occupation participants under the  
2 Wisconsin Retirement System.

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***Analysis by the Legislative Reference Bureau***

Under current law, participants under the Wisconsin Retirement System (WRS) whose principal duties involve law enforcement or fire suppression or prevention and require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning are classified as protective occupation participants. Current law specifically classifies police officers, fire fighters, and various other individuals as protective occupation participants. Under the WRS, the normal retirement age of a protective occupation participant is lower than that of other participants and the percentage multiplier used to calculate retirement annuities is higher for protective occupation participants than for other participants.

This bill classifies all of the following state employees as protective occupation participants for the purposes of the WRS:

1. Members of the Parole Commission.
2. State employees who are employed at state correctional institutions, juvenile correctional facilities, the mental health institutes at Mendota and Winnebago, the Wisconsin Resource Center, or secure mental health units or facilities for sexually violent persons.
3. Psychologists employed by the Department of Corrections (DOC) who perform duties related to sexually violent person commitments.
4. Corrections classification specialists employed by DOC who perform duties related to sexually violent person commitments.
5. Clerical employees employed at probation, extended supervision, and parole offices.

Because this bill relates to public employee retirement or pensions, it may be referred to the Joint Survey Committee on Retirement Systems for a report to be printed as an appendix to the bill.

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:***

3 **SECTION 1.** 40.02 (17) (n) of the statutes is created to read:  
4 40.02 (17) (n) Notwithstanding par. (d), each participant who is employed at  
5 a state correctional institution, a juvenile correctional facility, as defined in s. 938.02  
6 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin Resource

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1 Center, established under s. 46.056, or a secure mental health unit or facility,  
2 established under s. 980.065 (2), on or after the effective date of this paragraph ....  
3 [LRB inserts date], shall be granted creditable service as a protective occupation  
4 participant for all covered service while employed at a state correctional institution,  
5 a juvenile correctional facility, as defined in s. 938.02 (10p), a mental health institute  
6 specified in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056,  
7 or a secure mental health unit or facility, established under s. 980.065 (2), that was  
8 earned on or after the effective date of this paragraph .... [LRB inserts date], but may  
9 not be granted creditable service as a protective occupation participant for any  
10 covered service while employed at a state correctional institution, a juvenile  
11 correctional facility, as defined in s. 938.02 (10p), a mental health institute specified  
12 in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056, or a  
13 secure mental health unit or facility, established under s. 980.065 (2), that was  
14 earned before the effective date of this paragraph .... [LRB inserts date], unless that  
15 service was earned while the participant was classified under sub. (48) (a) and s.  
16 40.06 (1) (d) as a protective occupation participant.

17 **SECTION 2.** 40.02 (17) (p) of the statutes is created to read:

18 40.02 (17) (p) Notwithstanding par. (d), each participant who is a member of  
19 the parole commission on or after the effective date of this paragraph .... [LRB inserts  
20 date], shall be granted creditable service as a protective occupation participant for  
21 all covered service while a member of the parole commission that was earned on or  
22 after the effective date of this paragraph .... [LRB inserts date], but may not be  
23 granted creditable service as a protective occupation participant for any covered  
24 service while a member of the parole commission that was earned before the effective  
25 date of this paragraph .... [LRB inserts date], unless that service was earned while

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1 the participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a protective  
2 occupation participant.

3 **SECTION 3.** 40.02 (17) (pm) of the statutes is created to read:

4 40.02 (17) (pm) Notwithstanding par. (d), each participant who is a  
5 psychologist employed by the department of corrections and who performs duties  
6 related to ch. 980 on or after the effective date of this paragraph .... [LRB inserts  
7 date], shall be granted creditable service as a protective occupation participant for  
8 all covered service while a psychologist employed by the department of corrections  
9 and performing duties related to ch. 980 that was earned on or after the effective date  
10 of this paragraph .... [LRB inserts date], but may not be granted creditable service  
11 as a protective occupation participant for any covered service while a psychologist  
12 employed by the department of corrections and performing duties related to ch. 980  
13 that was earned before the effective date of this paragraph .... [LRB inserts date],  
14 unless that service was earned while the participant was classified under sub. (48)  
15 (a) and s. 40.06 (1) (d) as a protective occupation participant.

16 **SECTION 4.** 40.02 (17) (pt) of the statutes is created to read:

17 40.02 (17) (pt) Notwithstanding par. (d), each participant who is a clerical  
18 employee employed at a probation, extended supervision, and parole office on or after  
19 the effective date of this paragraph .... [LRB inserts date], shall be granted creditable  
20 service as a protective occupation participant for all covered service while a clerical  
21 employee employed at a probation, extended supervision, and parole office that was  
22 earned on or after the effective date of this paragraph .... [LRB inserts date], but may  
23 not be granted creditable service as a protective occupation participant for any  
24 covered service while a clerical employee employed at a probation, extended  
25 supervision, and parole office that was earned before the effective date of this

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1 paragraph .... [LRB inserts date], unless that service was earned while the  
2 participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a protective  
3 occupation participant.

4 **SECTION 5.** 40.02 (17) (pz) of the statutes is created to read:

5 40.02 (17) (pz) Notwithstanding par. (d), each participant who is a corrections  
6 classification specialist employed by the department of corrections and who performs  
7 duties related to ch. 980 on or after the effective date of this paragraph .... [LRB  
8 inserts date], shall be granted creditable service as a protective occupation  
9 participant for all covered service while a classification specialist employed by the  
10 department of corrections and performing duties related to ch. 980 that was earned  
11 on or after the effective date of this paragraph .... [LRB inserts date], but may not be  
12 granted creditable service as a protective occupation participant for any covered  
13 service while a corrections classification specialist employed by the department of  
14 corrections and performing duties related to ch. 980 that was earned before the  
15 effective date of this paragraph .... [LRB inserts date], unless that service was earned  
16 while the participant was classified under sub. (48) (a) and s. 40.06 (1) (d) as a  
17 protective occupation participant.

18 **SECTION 6.** 40.02 (48) (bc) of the statutes is created to read:

19 40.02 (48) (bc) "Protective occupation participant" includes any participant  
20 who is a member of the parole commission if the participant's employer classifies the  
21 participant as a protective occupation participant and the department receives  
22 notification of the participant's name as provided in s. 40.06 (1) (d) and (dm).  
23 Notwithstanding par. (a), an employer shall classify a participant who is a member  
24 of the parole commission as a protective occupation participant without making a

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1 determination that the principal duties of the participant involve active law  
2 enforcement or active fire suppression or prevention.

3 **SECTION 7.** 40.02 (48) (bd) of the statutes is created to read:

4 40.02 (48) (bd) “Protective occupation participant” includes any participant  
5 who is employed at a state correctional institution, a juvenile correctional facility, as  
6 defined in s. 938.02 (10p), a mental health institute specified in s. 51.05 (1), the  
7 Wisconsin Resource Center, established under s. 46.056, or a secure mental health  
8 unit or facility, established under s. 980.065 (2), if the participant’s employer  
9 classifies the participant as a protective occupation participant and the department  
10 receives notification of the participant’s name as provided in s. 40.06 (1) (d) and (dm).  
11 Notwithstanding par. (a), an employer shall classify a participant who is employed  
12 at a state correctional institution, a juvenile correctional facility, as defined in s.  
13 938.02 (10p), a mental health institute specified in s. 51.05 (1), the Wisconsin  
14 Resource Center, established under s. 46.056, or a secure mental health unit or  
15 facility, established under s. 980.065 (2), as a protective occupation participant  
16 without making a determination that the principal duties of the participant involve  
17 active law enforcement or active fire suppression or prevention.

18 **SECTION 8.** 40.02 (48) (bdm) of the statutes is created to read:

19 40.02 (48) (bdm) “Protective occupation participant” includes any participant  
20 who is a psychologist employed by the department of corrections and who performs  
21 duties related to ch. 980 if the participant’s employer classifies the participant as a  
22 protective occupation participant and the department receives notification of the  
23 participant’s name as provided in s. 40.06 (1) (d) and (dm). Notwithstanding par. (a),  
24 an employer shall classify a participant who is a psychologist employed by the  
25 department of corrections and who performs duties related to ch. 980 as a protective

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1 occupation participant without making a determination that the principal duties of  
2 the participant involve active law enforcement or active fire suppression or  
3 prevention.

4 **SECTION 9.** 40.02 (48) (bdp) of the statutes is created to read:

5 40.02 (48) (bdp) "Protective occupation participant" includes any participant  
6 who is a clerical employee employed at a probation, extended supervision, and parole  
7 office if the participant's employer classifies the participant as a protective  
8 occupation participant and the department receives notification of the participant's  
9 name as provided in s. 40.06 (1) (d) and (dm). Notwithstanding par. (a), an employer  
10 shall classify a participant who is a clerical employee employed at a probation,  
11 extended supervision, and parole office as a protective occupation participant  
12 without making a determination that the principal duties of the participant involve  
13 active law enforcement or active fire suppression or prevention.

14 **SECTION 10.** 40.02 (48) (bdt) of the statutes is created to read:

15 40.02 (48) (bdt) "Protective occupation participant" includes any participant  
16 who is a corrections classification specialist employed by the department of  
17 corrections and who performs duties related to ch. 980 if the participant's employer  
18 classifies the participant as a protective occupation participant and the department  
19 receives notification of the participant's name as provided in s. 40.06 (1) (d) and (dm).  
20 Notwithstanding par. (a), an employer shall classify a participant who is a  
21 corrections classification specialist employed by the department of corrections and  
22 who performs duties related to ch. 980 as a protective occupation participant without  
23 making a determination that the principal duties of the participant involve active  
24 law enforcement or active fire suppression or prevention.

25 **SECTION 11.** 40.02 (48) (c) of the statutes is amended to read:

**ASSEMBLY BILL 199****SECTION 11**

1           40.02 (48) (c) In s. 40.65, “protective occupation participant” means a  
2 participating employee who is a police officer, fire fighter, an individual determined  
3 by a participating employer under par. (a), (bc), (bd), (bdm), (bdp), (bdt), or (bm) to  
4 be a protective occupation participant, county undersheriff, deputy sheriff, state  
5 probation and parole officer, county traffic police officer, conservation warden, state  
6 forest ranger, field conservation employee of the department of natural resources  
7 who is subject to call for forest fire control or warden duty, member of the state traffic  
8 patrol, state motor vehicle inspector, University of Wisconsin System full-time police  
9 officer, guard or any other employee whose principal duties are supervision and  
10 discipline of inmates at a state penal institution, excise tax investigator employed  
11 by the department of revenue, person employed under s. 61.66 (1), or special criminal  
12 investigation agent employed by the department of justice.

13           **SECTION 12.** 40.65 (4vm) of the statutes is created to read:

14           40.65 (4vm) A participant who is a member of the parole commission, who  
15 becomes a protective occupation participant on or after the effective date of this  
16 subsection .... [LRB inserts date], is not entitled to a duty disability benefit under this  
17 section for an injury or disease occurring before the effective date of this subsection  
18 .... [LRB inserts date].

19           **SECTION 13.** 40.65 (4vn) of the statutes is created to read:

20           40.65 (4vn) A participant who is a psychologist employed by the department  
21 of corrections and who performs duties related to ch. 980, who becomes a protective  
22 occupation participant on or after the effective date of this subsection .... [LRB inserts  
23 date], is not entitled to a duty disability benefit under this section for an injury or  
24 disease occurring before the effective date of this subsection .... [LRB inserts date].

25           **SECTION 14.** 40.65 (4vr) of the statutes is created to read:



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1           40.65 (4vr) A participant who is a clerical employee employed at a probation,  
2 extended supervision, and parole office, who becomes a protective occupation  
3 participant on or after the effective date of this subsection .... [LRB inserts date], is  
4 not entitled to a duty disability benefit under this section for an injury or disease  
5 occurring before the effective date of this subsection .... [LRB inserts date].

6           **SECTION 15.** 40.65 (4vs) of the statutes is created to read:

7           40.65 (4vs) A participant who is a corrections classification specialist employed  
8 by the department of corrections and who performs duties related to ch. 980, who  
9 becomes a protective occupation participant on or after the effective date of this  
10 subsection .... [LRB inserts date], is not entitled to a duty disability benefit under this  
11 section for an injury or disease occurring before the effective date of this subsection  
12 .... [LRB inserts date].

13           **SECTION 16.** 40.65 (4w) of the statutes is created to read:

14           40.65 (4w) A participant employed at a state correctional institution, a juvenile  
15 correctional facility, as defined in s. 938.02 (10p), a mental health institute specified  
16 in s. 51.05 (1), the Wisconsin Resource Center, established under s. 46.056, or a  
17 secure mental health unit or facility, established under s. 980.065 (2), who becomes  
18 a protective occupation participant on or after the effective date of this subsection ....  
19 [LRB inserts date], is not entitled to a duty disability benefit under this section for  
20 an injury or disease occurring before the effective date of this subsection .... [LRB  
21 inserts date].

22           **SECTION 17. Effective date.**

23           (1) This act takes effect on the January 1 after publication.

24

(END)