



State of Wisconsin  
1997 - 1998 LEGISLATURE

LRB-4373/2  
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## 1997 SENATE BILL 447

February 10, 1998 - Introduced by LAW REVISION COMMITTEE. Referred to  
Committee on Labor, Transportation and Financial Institutions.

1     **AN ACT** *to repeal* 111.335 (1) (d); *to renumber and amend* 47.01 (4) and 104.01  
2           (4); and *to amend* 20.445 (5) (bm), chapter 47 (title), 47.01 (3), 47.01 (5), 47.01  
3           (6), 47.02 (2), 47.02 (3) (a) 1., 47.02 (3) (a) 4., 47.02 (3) (b), 47.02 (3) (c), 47.02 (3)  
4           (d), 47.02 (3) (f), 47.02 (3) (h), 47.02 (3) (j), 47.02 (4) (a), 47.02 (4) (c), 47.03 (title),  
5           47.03 (11) (a), 47.035 (title), 102.61 (1), 104.01 (6), 104.07 (2), 106.04 (2r) (a) 3.,  
6           106.11 (2) (a) 1. e., 106.11 (2) (a) 3., 106.11 (3) (a), 111.31 (1), 111.31 (2), 111.31  
7           (3), 111.32 (8) (intro.), 111.321, 111.34 (title), 111.34 (1) (intro.), 111.34 (1) (a),  
8           111.34 (1) (b), 111.34 (2) (a), 111.34 (2) (b), 111.34 (2) (c), 230.24 (1m), 230.28 (1)  
9           (bm) (intro.), 230.28 (1) (bm) 2. and 560.20 (1) (e) of the statutes; **relating to:**  
10          updating obsolete terminology in the fair employment, vocational  
11          rehabilitation, worker's compensation, minimum wage and fair housing laws

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1           and deleting an obsolete reference in the fair employment law (suggested as  
2           remedial legislation by the department of workforce development).

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

Under the current fair employment law, subject to certain exceptions, no employer, labor organization, licensing agency or other person may engage in any act of employment discrimination, as specified in the fair employment law, on the basis of handicap. Currently, the fair employment law defines “handicapped individual” as an individual who has a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work, who has a record of such an impairment or who is perceived as having such an impairment. This bill changes that defined term to “individual with a disability” and changes all references to “handicap” in the fair employment law to “disability”.

The bill also changes the defined terms “handicapped person” and “severely handicapped person” in the vocational rehabilitation law to “person with a disability” and “person with a severe disability”; changes a reference to “handicap to employment” in the vocational rehabilitation law to “barrier to employment”; changes a reference to “handicapped” in the worker’s compensation law to “disabled”; changes the defined term “handicapped worker” in the minimum wage law to “worker with a disability”; and changes the defined term “handicapped individual” in the fair housing law to “individual with a disability”.

The current fair employment law also prohibits, subject to certain exceptions, employers, labor organizations, licensing agencies and other persons from engaging in any act of employment discrimination, as specified in the fair employment law, based on arrest or conviction record. The current fair employment law, however, provides that it is not employment discrimination because of arrest record to request information regarding an individual’s arrest record when employment depends on the bondability of the individual under a standard fidelity bond or when an equivalent bond is required by law, regulation or established business practice of the employer and the individual may not be bondable due to an arrest record and that it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensing, an individual who is not bondable under a standard fidelity bond or equivalent bond when bondability is required by law, regulation or established business practice of the employer. The current fair employment law defines “equivalent bond” to include a bond issued to an ex-offender under the federal Comprehensive Employment and Training Act (CETA). CETA, however, has been repealed. Accordingly, this bill eliminates that definition of “equivalent bond” in the fair employment law.



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1 substantial ~~handicap~~ barrier to employment and who can reasonably be expected to  
2 benefit in terms of employability from the provision of vocational rehabilitation  
3 services.

4 **SECTION 4.** 47.01 (4) of the statutes is renumbered 47.01 (3g) and amended to  
5 read:

6 47.01 (3g) “~~Severely handicapped person~~” “Person with a severe disability”  
7 means any ~~handicapped~~ person with a disability who has a severe disability which  
8 that seriously limits one or more functional capacities, including mobility,  
9 communication, self-care, self-direction, work tolerance, or work skills, in terms of  
10 employability, whose vocational rehabilitation can be expected to require multiple  
11 vocational rehabilitation services over an extended period of time and who has one  
12 or more physical or mental disabilities determined on the basis of an evaluation of  
13 rehabilitation potential to cause comparable substantial functional limitation.

14 **SECTION 5.** 47.01 (5) of the statutes is amended to read:

15 47.01 (5) “Visually impaired” means a loss of vision that can reasonably be  
16 expected to lead to blindness or a loss of vision that represents a ~~handicap~~ barrier  
17 to employment or other major life activities.

18 **SECTION 6.** 47.01 (6) of the statutes is amended to read:

19 47.01 (6) “Vocational rehabilitation” means assisting a ~~handicapped~~ person  
20 with a disability to become capable of competing in the labor market, practicing a  
21 profession, being self-employed, raising a family and making a home, participating  
22 in sheltered employment or other gainful work.

23 **SECTION 7.** 47.02 (2) of the statutes is amended to read:

24 47.02 (2) This section only applies to ~~handicapped and severely handicapped~~  
25 persons with disabilities and persons with severe disabilities except that each person

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1 has a right to be evaluated by the department to determine whether the person is a  
2 handicapped person with a disability.

3 **SECTION 8.** 47.02 (3) (a) 1. of the statutes is amended to read:

4 47.02 (3) (a) 1. Advise and assist any handicapped person with a disability who  
5 applies to the department concerning his or her rehabilitation.

6 **SECTION 9.** 47.02 (3) (a) 4. of the statutes is amended to read:

7 47.02 (3) (a) 4. Register and keep records for each handicapped person with a  
8 disability who uses the vocational rehabilitation services provided under this  
9 chapter.

10 **SECTION 10.** 47.02 (3) (b) of the statutes is amended to read:

11 47.02 (3) (b) Promote the establishment of local resources for the vocational  
12 rehabilitation of handicapped persons with disabilities.

13 **SECTION 11.** 47.02 (3) (c) of the statutes is amended to read:

14 47.02 (3) (c) Provide assessment and evaluation services appropriate to each  
15 individual, develop an individualized written rehabilitation program with each  
16 handicapped person with a disability and develop and supervise services that are  
17 part of any handicapped person's the vocational rehabilitation program of any person  
18 with a disability.

19 **SECTION 12.** 47.02 (3) (d) of the statutes is amended to read:

20 47.02 (3) (d) Aid handicapped persons with disabilities in securing the services  
21 needed to make them more employable, place handicapped persons with disabilities  
22 in suitable occupations and provide postemployment services, as defined in the  
23 handicapped person's rehabilitation program developed under par. (c) of a person  
24 with a disability, necessary to maintain employment.

25 **SECTION 13.** 47.02 (3) (f) of the statutes is amended to read:

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1           47.02 (3) (f) Make vocational rehabilitation services under this chapter  
2 available in every county to all ~~handicapped~~ persons with disabilities who are  
3 present in the state, regardless of residency.

4           **SECTION 14.** 47.02 (3) (h) of the statutes is amended to read:

5           47.02 (3) (h) Provide that ~~severely handicapped~~ persons with severe  
6 disabilities will receive priority for services under this chapter.

7           **SECTION 15.** 47.02 (3) (j) of the statutes is amended to read:

8           47.02 (3) (j) Except as provided in par. (o), determine the financial need of  
9 ~~handicapped~~ persons with disabilities based upon a uniform fee schedule as provided  
10 under s. 46.03 (18) for the provision or purchase of vocational rehabilitation services  
11 specified in the ~~person's~~ rehabilitation program developed under par. (c) of the person  
12 with a disability.

13           **SECTION 16.** 47.02 (4) (a) of the statutes is amended to read:

14           47.02 (4) (a) From the appropriation under s. 20.445 (5) (bm), provide financial  
15 aid to any ~~handicapped~~ person with a disability who is receiving vocational  
16 rehabilitation training and who has no other source of aid.

17           **SECTION 17.** 47.02 (4) (c) of the statutes is amended to read:

18           47.02 (4) (c) Provide personal assistance services to any ~~handicapped~~ person  
19 with a disability through county departments of human services or social services  
20 under s. 46.215, 46.22 or 46.23, aging units as defined in s. 46.82 (1) (a) or other  
21 persons.

22           **SECTION 18.** 47.03 (title) of the statutes is amended to read:

23           **47.03 (title) Specialized programs for handicapped persons with**  
24 **disabilities.**

25           **SECTION 19.** 47.03 (11) (a) of the statutes is amended to read:

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1           47.03 (11) (a) The department shall provide services, including vocational  
2 training, craft instruction and a supervised business initiatives program for severely  
3 ~~handicapped~~ persons with severe disabilities who are eligible for vocational  
4 rehabilitation services. Under this subsection, the department may own, lease,  
5 manage, supervise or operate businesses for the benefit of severely ~~handicapped~~  
6 persons with severe disabilities, including home-based employment and craft work,  
7 with the ultimate objective of enabling severely ~~handicapped~~ persons with severe  
8 disabilities to operate their own businesses. The department shall assist persons  
9 with severe disabilities who receive these services in marketing the finished  
10 products.

11           **SECTION 20.** 47.035 (title) of the statutes is amended to read:

12           **47.035** (title) **Fiscal agents for handicapped persons with disabilities.**

13           **SECTION 21.** 102.61 (1) of the statutes is amended to read:

14           102.61 (1) Subject to sub. (1m), an employe who is entitled to receive and has  
15 received compensation under this chapter, and who is entitled to and is receiving  
16 instructions under 29 USC 701 to 797b, as administered by the state in which the  
17 employe resides or in which the employe resided at the time of becoming physically  
18 ~~handicapped~~ disabled, shall, in addition to other indemnity, be paid the actual and  
19 necessary expenses of travel and, if the employe receives instructions elsewhere than  
20 at the place of residence, the actual and necessary costs of maintenance, during  
21 rehabilitation, subject to the conditions and limitations specified in sub. (1r).

22           **SECTION 22.** 104.01 (4) of the statutes is renumbered 104.01 (10) and amended  
23 to read:

24           104.01 (10) ~~“Handicapped” worker means one~~ “Worker with a disability”  
25 means a worker whose earning capacity is impaired by age or physical or mental

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1 deficiency or injury and who is being served in accordance with the recognized  
2 rehabilitation program of a sheltered workshop within the facilities of such agency  
3 or in or about the home of the ~~handicapped person~~ worker.

4 **SECTION 23.** 104.01 (6) of the statutes is amended to read:

5 104.01 (6) "Sheltered workshop" means a charitable organization or institution  
6 conducted not for profit, but for the purpose of carrying out a recognized program of  
7 rehabilitation for ~~handicapped~~ workers with disabilities and of providing such  
8 workers with disabilities with remunerative employment or other occupational  
9 rehabilitating activity of an educational or therapeutic nature.

10 **SECTION 24.** 104.07 (2) of the statutes is amended to read:

11 104.07 (2) The department shall make rules and grant licenses to sheltered  
12 workshops to permit the employment of ~~handicapped~~ workers with disabilities who  
13 are unable to earn the living-wage theretofore determined upon permitting such  
14 persons to work for at a wage which shall be that is commensurate with his or her  
15 their ability and productivity. A license granted to a sheltered workshop, under this  
16 section, may be issued for the entire workshop or a department ~~thereof~~ of the  
17 workshop.

18 **SECTION 25.** 106.04 (2r) (a) 3. of the statutes is amended to read:

19 106.04 (2r) (a) 3. "ANSI A117.1" means the 1986 edition of the American  
20 national standards institute's code for buildings and facilities providing accessibility  
21 and usability for ~~physically handicapped~~ people with physical disabilities.

22 **SECTION 26.** 106.11 (2) (a) 1. e. of the statutes is amended to read:

23 106.11 (2) (a) 1. e. In cases permitted by regulations of the U.S. secretary of  
24 labor, the individual is an adult ~~handicapped~~ individual with a disability whose own

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1 income meets the requirements of subd. 1. a. or b., but who is a member of a family  
2 whose income does not meet those requirements.

3 **SECTION 27.** 106.11 (2) (a) 3. of the statutes is amended to read:

4 106.11 (2) (a) 3. ~~“Handicapped individual”~~ “Individual with a disability” means  
5 an individual who has a physical or mental disability ~~which~~ that for the individual  
6 constitutes or results in a substantial ~~handicap~~ barrier to employment.

7 **SECTION 28.** 106.11 (3) (a) of the statutes is amended to read:

8 106.11 (3) (a) To ensure that the governor’s coordination and special services  
9 plan proposed by the governor’s council on workforce excellence and each job training  
10 plan proposed by a private industry council pursuant to the federal job training  
11 partnership act, 29 USC 1501 to 1792b, coordinate with and consider programs and  
12 services provided or proposed by other bodies with a direct interest in employment,  
13 training and human resources utilization and respond to concerns of interested  
14 citizens, employment and training service providers and members of the business  
15 community, the governor’s council on workforce excellence and each private industry  
16 council shall make their proposed plans available to the public and after reasonable  
17 notice hold at least one public hearing before submittal to the governor under par.  
18 (c). The governor’s council on workforce excellence or private industry council shall  
19 provide notice of the public hearing and a copy of the proposed plan or a summary  
20 of it to the appropriate standing committees under par. (b). The public hearing shall  
21 be held sufficiently in advance of the date each council must submit its plan to the  
22 governor to permit the council to address concerns raised at its hearing. The public  
23 hearing shall be held at a reasonable time in a place accessible to the public,  
24 including ~~handicapped~~ persons with disabilities.

25 **SECTION 29.** 111.31 (1) of the statutes is amended to read:

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1           111.31 (1) The legislature finds that the practice of unfair discrimination in  
2 employment against properly qualified individuals by reason of their age, race,  
3 creed, color, ~~handicap~~ disability, marital status, sex, national origin, ancestry, sexual  
4 orientation, arrest record, conviction record, membership in the national guard,  
5 state defense force or any other reserve component of the military forces of the United  
6 States or this state or use or nonuse of lawful products off the employer's premises  
7 during nonworking hours substantially and adversely affects the general welfare of  
8 the state. Employers, labor organizations, employment agencies and licensing  
9 agencies that deny employment opportunities and discriminate in employment  
10 against properly qualified individuals solely because of their age, race, creed, color,  
11 ~~handicap~~ disability, marital status, sex, national origin, ancestry, sexual orientation,  
12 arrest record, conviction record, membership in the national guard, state defense  
13 force or any other reserve component of the military forces of the United States or  
14 this state or use or nonuse of lawful products off the employer's premises during  
15 nonworking hours deprive those individuals of the earnings that are necessary to  
16 maintain a just and decent standard of living.

17           **SECTION 30.** 111.31 (2) of the statutes is amended to read:

18           111.31 (2) It is the intent of the legislature to protect by law the rights of all  
19 individuals to obtain gainful employment and to enjoy privileges free from  
20 employment discrimination because of age, race, creed, color, ~~handicap~~ disability,  
21 marital status, sex, national origin, ancestry, sexual orientation, arrest record,  
22 conviction record, membership in the national guard, state defense force or any other  
23 reserve component of the military forces of the United States or this state or use or  
24 nonuse of lawful products off the employer's premises during nonworking hours, and  
25 to encourage the full, nondiscriminatory utilization of the productive resources of the

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1 state to the benefit of the state, the family and all the people of the state. It is the  
2 intent of the legislature in promulgating this subchapter to encourage employers to  
3 evaluate an employe or applicant for employment based upon the employe's or  
4 applicant's individual qualifications rather than upon a particular class to which the  
5 individual may belong.

6 **SECTION 31.** 111.31 (3) of the statutes is amended to read:

7 111.31 (3) In the interpretation and application of this subchapter, and  
8 otherwise, it is declared to be the public policy of the state to encourage and foster  
9 to the fullest extent practicable the employment of all properly qualified individuals  
10 regardless of age, race, creed, color, ~~handicap disability~~, marital status, sex, national  
11 origin, ancestry, sexual orientation, arrest record, conviction record, membership in  
12 the national guard, state defense force or any other reserve component of the military  
13 forces of the United States or this state or use or nonuse of lawful products off the  
14 employer's premises during nonworking hours. Nothing in this subsection requires  
15 an affirmative action program to correct an imbalance in the work force. This  
16 subchapter shall be liberally construed for the accomplishment of this purpose.

17 **SECTION 32.** 111.32 (8) (intro.) of the statutes is amended to read:

18 111.32 (8) (intro.) "~~Handicapped individual~~" "Individual with a disability"  
19 means an individual who:

20 **SECTION 33.** 111.321 of the statutes is amended to read:

21 **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.36,  
22 no employer, labor organization, employment agency, licensing agency or other  
23 person may engage in any act of employment discrimination as specified in s. 111.322  
24 against any individual on the basis of age, race, creed, color, ~~handicap disability~~,  
25 marital status, sex, national origin, ancestry, arrest record, conviction record,

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1 membership in the national guard, state defense force or any reserve component of  
2 the military forces of the United States or this state or use or nonuse of lawful  
3 products off the employer's premises during nonworking hours.

4 **SECTION 34.** 111.335 (1) (d) of the statutes is repealed.

NOTE: This SECTION repeals the definition of "equivalent bond" in the fair employment law. According to DWD, that definition includes a bond issued to an ex-offender under the federal Comprehensive Employment and Training Act, which has been repealed. Therefore, the definition of "equivalent bond" is now obsolete and should also be repealed.

5 **SECTION 35.** 111.34 (title) of the statutes is amended to read:

6 **111.34 (title) Handicap Disability; exceptions and special cases.**

7 **SECTION 36.** 111.34 (1) (intro.) of the statutes is amended to read:

8 111.34 (1) (intro.) Employment discrimination because of handicap disability  
9 includes, but is not limited to:

10 **SECTION 37.** 111.34 (1) (a) of the statutes is amended to read:

11 111.34 (1) (a) Contributing a lesser amount to the fringe benefits, including life  
12 or disability insurance coverage, of any employe because of the employe's handicap  
13 disability; or

14 **SECTION 38.** 111.34 (1) (b) of the statutes is amended to read:

15 111.34 (1) (b) Refusing to reasonably accommodate an employe's or prospective  
16 employe's handicap disability unless the employer can demonstrate that the  
17 accommodation would pose a hardship on the employer's program, enterprise or  
18 business.

19 **SECTION 39.** 111.34 (2) (a) of the statutes is amended to read:

20 111.34 (2) (a) Notwithstanding s. 111.322, it is not employment discrimination  
21 because of handicap disability to refuse to hire, employ, admit or license any  
22 individual, to bar or terminate from employment, membership or licensure any

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1 individual, or to discriminate against any individual in promotion, compensation or  
2 in terms, conditions or privileges of employment if the ~~handicap~~ disability is  
3 reasonably related to the individual's ability to adequately undertake the  
4 job-related responsibilities of that individual's employment, membership or  
5 licensure.

6 **SECTION 40.** 111.34 (2) (b) of the statutes is amended to read:

7 111.34 (2) (b) In evaluating whether a ~~handicapped~~ an individual with a  
8 disability can adequately undertake the job-related responsibilities of a particular  
9 job, membership or licensed activity, the present and future safety of the individual,  
10 of the individual's coworkers and, if applicable, of the general public may be  
11 considered. However, this evaluation shall be made on an individual case-by-case  
12 basis and may not be made by a general rule which prohibits the employment or  
13 licensure of ~~handicapped~~ individuals with disabilities in general or a particular class  
14 of ~~handicapped~~ individuals with disabilities.

15 **SECTION 41.** 111.34 (2) (c) of the statutes is amended to read:

16 111.34 (2) (c) If the employment, membership or licensure involves a special  
17 duty of care for the safety of the general public, including but not limited to  
18 employment with a common carrier, this special duty of care may be considered in  
19 evaluating whether the employe or applicant can adequately undertake the  
20 job-related responsibilities of a particular job, membership or licensed activity.  
21 However, this evaluation shall be made on an individual case-by-case basis and may  
22 not be made by a general rule which prohibits the employment or licensure of  
23 ~~handicapped~~ individuals with disabilities in general or a particular class of  
24 ~~handicapped~~ individuals with disabilities.

25 **SECTION 42.** 230.24 (1m) of the statutes is amended to read:

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1           230.24 (1m) The policy established by the administrator under sub. (1) that  
2 deals with probation shall provide the option of extending the probationary period  
3 for ~~handicapped~~ individuals with disabilities, as defined in s. 111.32 (8), who are  
4 employes in a manner consistent with s. 230.28 (1) (bm).

5           **SECTION 43.** 230.28 (1) (bm) (intro.) of the statutes is amended to read:

6           230.28 (1) (bm) (intro.) At the request of an appointing authority and an  
7 employe, the administrator may authorize, at any time before the completion of the  
8 probationary period, an extended probationary period of up to one additional year  
9 for a ~~handicapped~~ an individual with a disability, as defined in s. 111.32 (8), who is  
10 the employe to allow the employe to do any of the following:

11           **SECTION 44.** 230.28 (1) (bm) 2. of the statutes is amended to read:

12           230.28 (1) (bm) 2. Obtain or adapt to special modifications made to the  
13 employe's workplace to accommodate the employe's ~~handicap~~ disability.

14           **SECTION 45.** 560.20 (1) (e) of the statutes is amended to read:

15           560.20 (1) (e) "Person with severe disabilities" means an individual who is  
16 eligible for one or more programs or services under ch. 47 because he or she is a  
17 ~~severely handicapped person~~ with a severe disability, as defined in s. 47.01 (4) (3g).

NOTE: SECTIONS 1 to 33 and 35 to 45 change references in the fair employment, vocational rehabilitation, worker's compensation, minimum wage for sheltered workshop employes and fair housing statutes from the terms "handicap", "handicapped individual, person or worker" and "handicap to employment" to "disability", "individual, person or worker with a disability" and "barrier to employment". According to DWD, some state statutes and federal statutes use the term "disability" rather than "handicap" because it is more up-to-date and commonly used. Therefore, references to "handicap", "handicapped individual, person or worker" and "handicap to employment" should be updated accordingly.