



2019 ASSEMBLY BILL 30

1 **AN ACT** *to create* 20.625 (1) (h), 758.20 (3), 895.492 and 973.25 of the statutes;
2 **relating to:** creating a procedure for granting certificates of qualification for
3 employment for persons convicted of a crime and making an appropriation.

Analysis by the Legislative Reference Bureau

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

4 **SECTION 1.** 20.625 (1) (h) of the statutes is created to read:
5 20.625 (1) (h) *Certificates of qualification for employment.* All moneys received
6 under s. 973.25 (4) (a) for general program operations of the circuit courts.
7 **SECTION 2.** 758.20 (3) of the statutes is created to read:
8 758.20 (3) The director of state courts shall ensure the Wisconsin Circuit Court
9 Access Internet site provides the department of corrections access to the information
10 required to complete the report under s. 973.25 (8).

ASSEMBLY BILL 30**SECTION 3**

1 **SECTION 3.** 895.492 of the statutes is created to read:

2 **895.492 Civil liability exemption; certificate of qualification for**
3 **employment.** (1) In this section:

4 (a) “Employee” has the meaning given in s. 101.01 (3) and also includes a former
5 employee.

6 (b) “Employer” has the meaning given in s. 101.01 (4).

7 **(2)** An employer who hires an employee who has been issued a certificate of
8 qualification for employment under s. 973.25 is immune from liability for the
9 intentional acts or omissions of the employee, acts of the employee that are outside
10 of the course of the employee’s employment, and in any proceeding on a claim against
11 the employer for negligent hiring, retention, training, or supervision of the employee
12 unless the employer, when he or she hired the employee, acted maliciously towards
13 the plaintiff or with intentional disregard of the rights of the plaintiff.

14 **SECTION 4.** 973.25 of the statutes is created to read:

15 **973.25 Certificates of qualification for employment.** (1) **DEFINITIONS.** In
16 this section:

17 (a) “Certificate of qualification for employment” means a certificate issued by
18 the council on offender employment that provides an offender with relief from a
19 collateral sanction, except that it does not provide relief from s. 48.685 (5m), 50.065
20 (4m), or 111.335 (3) (a), (b), (c), or (e) or (4) (h) or (i).

21 (b) “Collateral sanction” means a penalty, ineligibility, disability, or
22 disadvantage that is related to employment or to occupational licensing or
23 certification and that is a result of the offender’s criminal record. “Collateral
24 sanction” does not include confinement in a jail or prison; probation, parole, or
25 extended supervision; suspension or revocation of motor vehicle operating

ASSEMBLY BILL 30

1 privileges; imposition of a forfeiture, fine, or assessment; costs of prosecution; or an
2 order to pay restitution.

3 (c) "Offender" means a person who has been convicted of a crime other than a
4 violent crime, as defined in s. 165.84 (7).

5 **(2) COUNCIL ON OFFENDER EMPLOYMENT.** The director of state courts shall provide
6 forms for use in filing an application for a certificate of qualification for employment
7 and shall convene a council on offender employment that shall review applications
8 for certificates of qualification for employment. The council shall consist of the
9 following 3 members: the attorney general, or his or her designee; the state public
10 defender, or his or her designee; and the chairperson of the parole commission, or his
11 or her designee. The council shall have the powers, duties, and responsibilities set
12 forth in this section.

13 **(3) ELIGIBILITY.** An offender who has been released from confinement may
14 apply for a certificate of qualification for employment under this section if any of the
15 following applies:

16 (a) He or she has served at least 24 consecutive months of a term of confinement
17 in prison in the Wisconsin state prisons.

18 (b) He or she has served at least 12 consecutive months of a term of confinement
19 in prison in the Wisconsin state prisons and at least 12 consecutive months of a term
20 of extended supervision under s. 302.113.

21 **(4) PROCEDURE.** (a) An offender may file an application for a certificate of
22 qualification for employment to the council on offender employment on a form to be
23 provided by the director of state courts along with an application fee of \$20 that shall
24 be deposited in the appropriation under s. 20.625 (1) (h). The council may waive the

ASSEMBLY BILL 30**SECTION 4**

1 fee if the offender submits an affidavit along with the application in which he or she
2 swears or affirms that he or she is unable to pay the application fee.

3 (b) After receiving an application under par. (a), the council on offender
4 employment shall request from the department of corrections and the department
5 shall provide to the council all of the following information about the offender:

6 1. His or her highest level of education.

7 2. Any treatment he or she has completed.

8 3. Any performance evaluations for his or her work.

9 4. Any risk and needs assessment reports.

10 5. Any other reports of information gathered during the normal course of
11 business, as requested by the council.

12 (c) Within 60 days after receiving the information requested under par. (b), the
13 council on offender employment shall issue an order granting or denying the
14 offender's request for a certificate of qualification for employment.

15 **(5) GRANTING OF CERTIFICATE; EXCEPTIONS.** The council on offender employment
16 shall grant an offender's application for a certificate of qualification for employment
17 if the council finds that the offender is not likely to pose a risk to public safety, that
18 the certificate will substantially assist the offender in obtaining employment or
19 occupational licensing or certification, and that the offender is less likely to commit
20 an additional criminal offense if he or she obtains a certificate of qualification for
21 employment.

22 **(6) REVOCATION OF CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT.** (a) If an
23 offender is convicted of a felony or of a Class A or Class B misdemeanor after he or
24 she is issued a certificate of qualification for employment, or if his or her probation,
25 parole, or extended supervision is revoked for the commission of a crime, the court

ASSEMBLY BILL 30

1 shall permanently revoke a certificate of qualification for employment issued under
2 sub. (5).

3 (b) The court may not revoke an offender's certificate of qualification for
4 employment as a sanction for the offender's commission of an act or offense that is
5 a violation of a condition of the offender's probation, parole, or extended supervision
6 that is not a crime, or if the offender's probation, parole, or extended supervision is
7 revoked as a result of the offender's commission of a noncriminal act.

8 (7) ADMISSIBILITY OF A CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT IN A FAIR
9 EMPLOYMENT PROCEEDING. A certificate of qualification for employment issued under
10 sub. (4) (c) is not admissible as evidence in a proceeding alleging an act of
11 discrimination on the basis of conviction record under subch. II of ch. 111.

12 (8) DATA COLLECTION; REPORT TO LEGISLATURE. The department of corrections
13 shall prepare an annual report that includes, for each year, the number of
14 applications that are received under this section, the number of certificates of
15 qualification for employment that are issued, and the number of certificates of
16 qualification for employment that are revoked and the reasons for revocation. The
17 department shall submit the report to the chief clerk of each house of the legislature
18 for distribution to the legislature under s. 13.172 (2).

19

(END)