

2019 Assembly Bill 30 (LRB -1712)

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

2019

| | | | |
|--------|----|---|-----|
| 02-22. | A. | Introduced by Representatives Hutton, Snyder, Fields, Ballweg, Bowen, Brooks, Goyke, Horlacher, Krug, Kurtz, Mursau, L. Myers, Ramthun, Sortwell, Tittl and Thiesfeldt ; cosponsored by Senators Darling, L. Taylor, Carpenter, Cowles, Feyen, Olsen, Stroebel and Wanggaard. | 48 |
| 02-22. | A. | Read first time and referred to Committee on Corrections | 48 |
| 03-05. | A. | Representative Zimmerman added as a coauthor | 59 |
| 03-15. | A. | Fiscal estimate received | |
| 04-18. | A. | Representative Spreitzer added as a coauthor | 107 |
| 09-30. | A. | Assembly Amendment 1 offered by Representative Hutton (LRB a0558) | 292 |
| 10-01. | A. | Public hearing held | |

2020

| | | | |
|--------|----|--|-----|
| 01-22. | A. | Representative Stubbs added as a coauthor | 502 |
| 01-22. | A. | Executive action taken | |
| 01-28. | A. | Report Assembly Amendment 1 adoption recommended by Committee on Corrections, Ayes 9, Noes 0 | 513 |
| 01-28. | A. | Report passage as amended recommended by Committee on Corrections, Ayes 9, Noes 0 | 513 |
| 01-28. | A. | Referred to committee on Rules | 513 |
| 02-06. | A. | Placed on calendar 2-11-2020 by Committee on Rules | |
| 02-10. | A. | Representative Vining added as a coauthor | 555 |
| 02-11. | A. | Read a second time | 557 |
| 02-11. | A. | Assembly Amendment 1 withdrawn and returned to author | 557 |
| 02-11. | A. | Assembly Amendment 2 offered by Representative Hutton (LRB a1174) | 557 |
| 02-11. | A. | Assembly Amendment 2 adopted | 557 |
| 02-11. | A. | Ordered to a third reading | 557 |
| 02-11. | A. | Rules suspended | 557 |
| 02-11. | A. | Read a third time and passed , Ayes 99, Noes 0 | 557 |
| 02-11. | A. | Ordered immediately messaged | 557 |
| 02-12. | S. | Received from Assembly | 669 |
| 02-13. | S. | Read first time and referred to committee on Senate Organization | 671 |
| 02-13. | S. | Available for scheduling | |
| 02-14. | S. | Referred to joint committee on Finance by Committee on Senate Organization pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0 | 678 |
| 02-14. | S. | Withdrawn from joint committee on Finance and made Available for Scheduling by committee on Senate Organization, pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0 | 678 |
| 02-14. | S. | Public hearing requirement waived by committee on Senate Organization, pursuant to Senate Rule 18 (1m), Ayes 5, Noes 0 | 678 |
| 02-14. | S. | Placed on calendar 2-19-2020 pursuant to Senate Rule 18(1) | 678 |
| 02-19. | S. | Senator Larson added as a cosponsor | |
| 02-19. | S. | Read a second time | |
| 02-19. | S. | Ordered to a third reading | |
| 02-19. | S. | Rules suspended | |
| 02-19. | S. | Read a third time and concurred in , Ayes 33, Noes 0 | |
| 02-19. | S. | Ordered immediately messaged | |
| 02-20. | A. | Received from Senate concurred in | |

DW



19en A B- 3.0

ENROLLED BILL

Adopted Documents

Original

Engrossed

Substitute Amdt

19 -1712, 1

Amendments: None or Listed below.

AA 2

Corrections: None or Listed by date below.

Topic: Same as relating clause or Indicated below.

2/21/20

Castro [Signature]

Date

Enrolling Drafter



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1712/1
MLJ:kjf

2019 ASSEMBLY BILL 30

February 22, 2019 - Introduced by Representatives HUTTON, SNYDER, FIELDS, BALLWEG, BOWEN, BROOKS, GOYKE, HORLACHER, KRUG, KURTZ, MURSAU, MYERS, RAMTHUN, SORTWELL, TITTL and THIESFELDT, cosponsored by Senators DARLING, L. TAYLOR, CARPENTER, COWLES, FEYEN, OLSEN, STROEBEL and WANGGAARD. Referred to Committee on Corrections.

- 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

Under current law, a person who has been convicted of a crime may be ineligible for, or at a disadvantage related to, certain types of employment, occupational licensing, or occupational certification. This bill creates the Council on Offender Employment, which may issue a certificate of qualification for employment (CQE) that grants relief to the person from ineligibility for or disadvantage related to employment, occupational licensing, or occupational certification.

Under the bill, a person who has been convicted of a nonviolent crime and released from confinement may apply to the council for a CQE after he or she has served a term of incarceration of at least 24 consecutive months or after he or she has served a term of incarceration of at least 12 consecutive months and a term of extended supervision of at least 12 consecutive months. Under the bill, the Department of Corrections must supply the council with information gathered during the person's period of incarceration and supervision that the council may use to determine whether to grant a CQE.

Under the bill, the council must grant a person's application for a CQE if the council finds that the person is not likely to pose a risk to public safety, that the CQE will substantially assist the person in obtaining employment or occupational licensing or certification, and that the person is less likely to commit an additional

ASSEMBLY BILL 30

criminal offense if he or she obtains a CQE. The council may not issue a CQE that provides relief from ineligibility for certain occupations, licenses, or certifications that are related to certain offenses, that are designed to protect public health and safety, or that have a close connection to the crime for which the person was convicted. Under the bill, generally, if a person who received a CQE is convicted of a felony or of a Class A or Class B misdemeanor or has his or her probation or extended supervision revoked for committing a criminal offense, the CQE is permanently revoked.

The bill also provides limited immunity from civil liability for employers who hire a person who is issued a CQE. Under the bill, the employer is immune from liability for the acts or omissions of the employee unless the employer acted maliciously, with gross negligence, or with intent to cause harm when he or she hired the employee.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.625 (1) (h) of the statutes is created to read:

2 20.625 (1) (h) *Certificates of qualification for employment.* All moneys received
3 under s. 973.25 (4) (a) for general program operations of the circuit courts.

4 **SECTION 2.** 758.20 (3) of the statutes is created to read:

5 758.20 (3) The director of state courts shall ensure the Wisconsin Circuit Court
6 Access Internet site provides the department of corrections access to the information
7 required to complete the report under s. 973.25 (f).⁸

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

9 **895.492 Civil liability exemption; certificate of qualification for**
10 **employment. (1)** In this section:

11 (a) "Employee" has the meaning given in s. 101.01 (3) and also includes a former
12 employee.

13 (b) "Employer" has the meaning given in s. 101.01 (4).

AA 2
1.

ASSEMBLY BILL 30

1 (2) An employer who hires an employee who has been issued a certificate of
 2 qualification for employment under s. 973.25 is immune from liability for the acts or
 3 omissions of the employee unless the employer, when he or she hired the employee,
 4 acted maliciously, with gross negligence, or with intent to cause harm.

intentional
AA2
2.
INS
AA2
4.

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

6 **973.25 Certificates of qualification for employment.** (1) DEFINITIONS. In
 7 this section:

8 (a) "Certificate of qualification for employment" means a certificate issued by
 9 the council on offender employment that provides an offender with relief from a
 10 collateral sanction, except that it does not provide relief from s. 48.685 (5m), 50.065
 11 (4m), or 111.335 (3) (a), (b), (c), or (e) or (4) (h) or (i).

12 (b) "Collateral sanction" means a penalty, ineligibility, disability, or
 13 disadvantage that is related to employment or to occupational licensing or
 14 certification and that is a result of the offender's criminal record. "Collateral
 15 sanction" does not include confinement in a jail or prison; probation, parole, or
 16 extended supervision; suspension or revocation of motor vehicle operating
 17 privileges; imposition of a forfeiture, fine, or assessment; costs of prosecution; or an
 18 order to pay restitution.

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

21 (2) COUNCIL ON OFFENDER EMPLOYMENT. The director of state courts shall provide
 22 forms for use in filing an application for a certificate of qualification for employment
 23 and shall convene a council on offender employment that shall review applications
 24 for certificates of qualification for employment. The council shall consist of the
 25 following 3 members: the attorney general, or his or her designee; the state public

ASSEMBLY BILL 30**SECTION 4**

1 defender, or his or her designee; and the chairperson of the parole commission, or his
2 or her designee. The council shall have the powers, duties, and responsibilities set
3 forth in this section.

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

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

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

12 **(4) PROCEDURE.** (a) An offender may file an application for a certificate of
13 qualification for employment to the council on offender employment on a form to be
14 provided by the director of state courts along with an application fee of \$20 that shall
15 be deposited in the appropriation under s. 20.625 (1) (h). The council may waive the
16 fee if the offender submits an affidavit along with the application in which he or she
17 swears or affirms that he or she is unable to pay the application fee.

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

- 21 1. His or her highest level of education.
- 22 2. Any treatment he or she has completed.
- 23 3. Any performance evaluations for his or her work.
- 24 4. Any risk and needs assessment reports.

ASSEMBLY BILL 30

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

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

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

13 **(6) REVOCATION OF CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT.** (a) If an
14 offender is convicted of a felony or of a Class A or Class B misdemeanor after he or
15 she is issued a certificate of qualification for employment, or if his or her probation,
16 parole, or extended supervision is revoked for the commission of a crime, the court
17 shall permanently revoke a certificate of qualification for employment issued under
18 sub. (5).

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

INS
AA2
5.

24 **(7) DATA COLLECTION; REPORT TO LEGISLATURE.** The department of corrections
25 shall prepare an annual report that includes, for each year, the number of

AA2
6.

ASSEMBLY BILL 30**SECTION 4**

1 applications that are received under this section, the number of certificates of
2 qualification for employment that are issued, and the number of certificates of
3 qualification for employment that are revoked and the reasons for revocation. The
4 department shall submit the report to the chief clerk of each house of the legislature
5 for distribution to the legislature under s. 13.172 (2).

6

(END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBa1174/1
MLJ:cjs

**ASSEMBLY AMENDMENT 2,
TO ASSEMBLY BILL 30**

February 11, 2020 - Offered by Representative HUTTON.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 7: delete "(7)" and substitute "(8)".

3 **2.** Page 3, line 2: after "the" insert "intentional".

4 **3.** Page 3, line 3: after "of the employee" insert "acts of the employee that are
5 outside of the course of the employee's employment, and in any proceeding on a claim
6 against the employer for negligent hiring, retention, training, or supervision of the
7 employee".

8 **4.** Page 3, line 4: delete "maliciously, with gross negligence, or with intent to
9 cause harm." and substitute "maliciously towards the plaintiff or with intentional
10 disregard of the rights of the plaintiff".

11 **5.** Page 5, line 23: after that line insert:

INS
AA 2
3.

INS
AA 4.

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

5 **6.** Page 5, line 24: delete “(7)” and substitute “(8)”.

6 **(END)**

INS
AA 2
5.