

1971 Assembly Bill 329

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CHAPTER 198, Laws of 1971

AN ACT to amend 20.485 (1) (h), 45.352 (5a), 45.37 (2) (a) and (b), (5) (a) and (b), (6) (a) and (11) and 45.396; to repeal and recreate 45.37 (2) (f) and (9); and to create 20.485 (1) (i), 45.35 (17),

45.351 (5), 45.36 (1) (c) and 45.37 (2) (g) and (16) of the statutes, relating to various veterans' benefits.

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

SECTION 1. 20.485 (1) (h) of the statutes is amended to read:

20.485 (1) (h) All moneys received under s. 45.37 (2) ~~(f)~~ (g), (10) and (11) and (16), or any moneys received by gifts or bequests, to carry out the purposes of ~~s. ss. 45.365 and 45.37.~~

SECTION 2. 20.485 (1) (i) of the statutes is created to read:

20.485 (1) (i) Prepaid care. All moneys received under s. 45.37 (2) (f) and (9) to carry out the purposes of s. 45.37 (16).

SECTION 2g. 45.35 (17) of the statutes is created to read:

45.35 (17) PENALTIES FOR FALSE STATEMENTS. (a) In any case where the department finds that an applicant for benefits from the department has wilfully made or caused to be made, or conspired, combined, aided or assisted in, agreed to, arranged for, or in any wise procured the making of a false or fraudulent affidavit, declaration, certificate, statement or other writing, it may suspend all benefits available to such applicant from the department under this chapter.

(b) Any person who, with the intent to secure any benefits under this chapter, whether for himself, or for some other person, wilfully makes or causes to be made, or conspires, combines, aids, or assists in, agrees to, arranges for, or in any wise procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, or other writing, may be fined not more than \$500 or be imprisoned for not more than 6 months, or both. Such fine or imprisonment may be imposed in addition to the penalty provided in par. (a).

SECTION 3. 45.351 (5) of the statutes is created to read:

45.351 (5) "Child" as used in this section means child as defined in s. 45.35 (5m) (b).

SECTION 4. 45.352 (5a) of the statutes is amended to read:

45.352 (5a) In any exceptional case involving a veteran borrower who is unable to obtain title to the real estate on which his home is located, but whose application otherwise qualifies under this section, the department may accept either a chattel security agreement or an assignment of a ~~long-term~~ long-term lease on real estate, or both such agreement and assignment, or an assignment of vendee's interest in a land contract, to secure a note evidencing a loan made under this section.

SECTION 5. 45.36 (1) (c) of the statutes is created to read:

45.36 (1) (c) "Duly authorized representative" means any person authorized in writing by the veteran to act for him, or his legally constituted representative if the veteran is incompetent or deceased. Where for proper reason no such representative has been or will be appointed, his spouse, an adult child, or if the veteran is unmarried, either of his parents shall be recognized as the duly authorized representative of the veteran.

SECTION 6. 45.37 (2) (a) and (b), (5) (a) and (b), (6) (a) and (11) of the statutes are amended to read:

45.37 (2) (a) Was a resident of this state at the time of entering service with the armed forces and ~~has been~~ is a resident of this state ~~for 5 years next preceding~~ on the date of application for membership. Residence may not be initiated by residence in a U.S. veterans administration facility.

(b) (title) Disability test. ~~Is found by the department to lack adequate means of support for himself and dependents, and is temporarily or permanently incapacitated due to physical disability or age from following any substantially gainful occupation.~~

(5) (a) Her husband is a member, or if not a member is institutionalized elsewhere because of physical or mental disability, and she had lived with such husband not less than ~~5 years~~ one year immediately before making application for membership.

(b) Separation from such husband necessitated by reason of employment, hospitalization or because of a physical or mental disability of either husband or wife shall not be taken to constitute an interruption of such ~~5 year~~ one year period.

(6) (a) Was married to and living with her veteran husband not less than ~~5 years~~ one year immediately prior to the death of her veteran husband, or was married to the veteran at the time he entered the service and was widowed by the death of her spouse in the service or as a result of physical disability incurred during such service, or the period during which she was married to and lived with her spouse plus the period of her widowhood is ~~5 years~~ one year or more, or if she was married to and living with her veteran husband less than ~~5 years~~ one year and a child was born of the marriage; and

(11) If a member of the home dies leaving at the home cash or other personal property of a value not exceeding \$1,000, the commandant of the home may turn over such property or its proceeds to the state treasurer for the sole use and benefit of the home, without administration, subject to refund within 6 years to any creditor or legal dependent who shall establish his right to the fund or property or any portion thereof. The attorney general upon being satisfied that a claim out of such funds or property is legal and valid may certify the same to the state department and the department shall pay the same out of such funds or property , except that payment of claims for a member's funeral and burial expenses may not exceed \$300 in addition to the amount allowed by the United States for the member's funeral and burial and the right for burial and interment provided in sub. (15) (a).

SECTION 7. 45.37 (2) (f) and (9) of the statutes are repealed and recreated to read:

45.37 (2) (f) Assets. Reports or has total assets under \$1,000, unless prior to admission to the home the applicant turns over all assets in excess of \$1,000 to the department in prepayment for care and maintenance actually provided by the home during the period of residence. Property or any interest therein conveyed or disposed of by the applicant within 5 years immediately prior to application for admission by gift or for less than adequate consideration shall be considered assets upon admission to the extent of the value of the gift or to the extent consideration therefor was inadequate unless such assets were conveyed to the state or unless it is determined by the department that the conveyance or disposal of such assets had no relation to prospective entrance into the home. All such assets turned over to the department shall be converted to cash as soon as practicable after the applicant is admitted to membership but, in the event the applicant's homestead is occupied by his legal dependents as their sole residence, the

department shall make such homestead and household furniture and fixtures therein available to them for as long as it is so occupied, and such legal dependents shall be responsible for all expenses incidental to such occupancy and use. In the event such expenses incidental to such occupancy and use are not paid by such legal dependents, including without limitation because of enumeration, real estate taxes, special assessments, insurance premiums, mortgage instalment payments, and payment for repairs, in its sole discretion the department may pay such expenses from the appropriation in s. 20.485 (1) (h).

(9) MEMBER INCOME RETENTION AND PAYMENT. (a) Maximum retention. Each member of the home, regardless of the date of his admission, may retain \$40.50 of his monthly income plus an amount equal to the payment which would otherwise be due him for services rendered the home under its work therapy program and shall pay all of his remaining income into the general fund of the state.

(b) Married couples. If husband and wife are both members, their monthly incomes shall be combined before computing the amount each will be permitted to retain under par. (a).

(c) Work therapy program compensation. The board shall establish a pay plan for compensation of members for services rendered to the home under its work therapy program. A member participating in such program, whose monthly income is insufficient to permit him to retain the amount set forth in par. (a), shall receive direct payment thereunder from the department on the basis of the amount due him for such services or on the basis of the difference between his total monthly income and the amount he would be permitted to retain under par. (a) if his income was sufficient to permit maximum retention, whichever is less.

(d) Member income payments. Payments of the amounts due the state shall be made at such time and in such amounts as the board provides by rule.

(e) Veterans administration payments. Payment of amounts due the state shall be made to the fullest extent possible from sources of income other than pension or compensation paid by the U.S. veterans administration.

(f) Remission of income. The department may remit, from amounts paid by a member, such sums monthly as it deems necessary for the care of his nonmember dependents.

(g) "Income" - defined. "Income", in this section, means money, property or anything of monetary value received from any source to which a member may become entitled subsequent to admission, including without limitation because of enumeration: all pensions from state, federal or private sources, annuities, social security payments, railroad retirement, public or private retirement, compensation, wages, salary, alimony, rents, interest, dividends, profits, return on investment, moneys received for loss, damage or injury, awards, gifts, devises, bequests and hereditaments, inheritances, discoveries, powers and insurance benefits but shall not include payment to a member for services rendered to the home under its work therapy program or income received by a member from the sale of products or services through the hobby shop. Any renunciation or transfer of income by a member shall be void.

(h) Home exchange. The operation of the home exchange, including the operation of the hobby shop for the sale of products made by all members, shall be conducted under the supervision of the department.

SECTION 8. 45.37 (2) (g) of the statutes is created to read:

45.37 (2) (g) Satisfaction of lien. If a member whose homestead has not been sold and whose legal dependents are occupying such homestead dies, the department shall quitclaim its interest in such homestead to such legal dependents either upon payment to the department of an amount equal to all expenditures made by it on such homestead pursuant to par. (f) or upon execution by such legal dependents of a promissory, instalment payment note, to the department in such amount within 6 months after the member's death. Such note shall bear interest at the rate of 7% per annum on unpaid balances of principal and shall be secured by a real estate mortgage on such homestead. Any quitclaim deed executed by the department under this subsection shall include household furniture and furnishings in the homestead. If such payment is not made or such note and mortgage executed within 6 months of the member's death, his legal dependents shall be divested of all right, title and interest in and to such homestead.

SECTION 9. 45.37 (16) of the statutes is created to read:

45.37 (16) PREPAID CARE ACCOUNTS. (a) Excess assets paid to the department under sub. (2) (f) and all income paid into the general fund of the state under sub. (9) shall constitute a member's prepaid care account.

(b) The actual cost of each member's care and maintenance at the home shall be computed monthly, and paid from the member's prepaid care account balance, if any, into the general fund to the extent of the member's contribution of excess assets and are appropriated therefrom as provided in s. 20.485 (1) (h), and thereafter into the general fund.

(c) In the event a member's prepaid care account balance is insufficient to pay the full monthly cost of care and maintenance, payment shall be made as provided in sub. (b) to the extent of the prepaid care account balance, but no deficit resulting shall be carried forward and charged against new accruals to such member's prepaid care account.

(d) Balances in a member's prepaid care account shall be considered prepayment for complete personal maintenance and medical care of the member for his lifetime to be provided by the department and shall not be considered assets of the member.

(e) If a member is discharged from the home all excess assets not converted to cash or contracted to be sold shall be returned to the member and the department shall quitclaim its interest in any homestead turned over to the department by the member as excess assets and not converted to cash or contracted to be sold, and there shall be refunded to him an amount equal to the unused balance remaining in his prepaid care account and the net proceeds ultimately realized from the sale of assets contracted to be sold on date of discharge, less actual cost of care and maintenance for month of discharge not paid to date of discharge.

(f) Upon death of a member any unexpended balance remaining in his prepaid care account shall lapse and any excess assets turned over to the department and not converted to cash, including the member's homestead if not occupied by his legal dependents or conveyed to the department jointly by the decedent and his member spouse, shall be converted to cash, and all such amounts shall be paid into the general fund and are appropriated therefrom as provided in s. 20.485 (1) (h), and such balance and excess assets shall not be considered assets of the decedent for any purpose. A homestead conveyed to the department jointly by the decedent and his

member spouse which has not been sold on the date of his death shall become a part of the surviving spouse's prepaid care account.

SECTION 10. 45.396 of the statutes is amended to read:

45.396 Any veteran upon the completion of any correspondence courses or part-time classroom study from the university of Wisconsin, the university of Wisconsin extension division, any state university or its extension division, or from any other institution of higher education located in Wisconsin which was accredited by the north central association of colleges and secondary schools on April 1, 1971, or from any school of vocational, technical and adult education as established under s. 38.15 receiving aids from the board of vocational, technical and adult education or from any public or private high school, taken upon authorization of the department of veterans affairs, may be reimbursed in whole or in part for the cost of such courses, including necessary textbooks, by the department upon presentation to the department of a certificate from the school indicating that he has completed the courses and stating the cost of such courses and necessary textbooks. Benefits granted under this section shall be paid out of the appropriation under s. 20.485 (2) (um).
