



WISCONSIN BACKGROUND CHECK AND MISCONDUCT INVESTIGATION PROGRAM: OFFENSES AFFECTING ELIGIBILITY

Wisconsin Department of Health Services
Division of Quality Assurance
P-00274 (10/2023)

INTRODUCTION

Sections [50.065, Wis. Stats](#) and [ch. DHS 12, Wis Admin. Code](#) establish requirements for [entities](#) to verify eligibility of employees and contractors to work as [caregivers](#) ([caregiver background checks](#)). Entities must conduct and [document](#) caregiver background checks before hiring or contracting with an individual, every four years thereafter, and when a change in status occurs.

ELIGIBILITY REQUIREMENTS

Entities are prohibited from employing or entering into contract with an individual to work as a [caregiver](#), if the individual has a conviction or finding for one or more offenses listed in TABLE I or TABLE II (as applicable) and the individual has not provided proof of [rehabilitation review](#) approval¹. A criminal history record that indicates “not guilty,” “no prosecution,” “dropped,” or “dismissed” means that the individual was not convicted.

OFFENSES SUBSTANTIALLY RELATED TO CLIENT CARE

Entities may refuse to employ or contract with an individual to work as a caregiver, if the individual has a conviction or finding for an offense that is not listed in TABLE I or TABLE II (as applicable), but that, in the estimation of the entity, is substantially related client care. Section [DHS 12.06, Wis. Admin. Code](#) sets forth criteria for determining whether an offense is substantially related to client care.

REQUIREMENTS TO OBTAIN CRIMINAL COMPLAINT AND JUDGMENT OF CONVICTION

Entities are required to obtain the criminal complaint and, if convicted, a judgment of conviction from the Clerk of Courts in the county where the person was convicted, in any of the following circumstances:

1. The individual has a conviction for any of the following offenses in the **past 5 years**.

- | | |
|--------------------------------------------------------|------------------------|
| • Misdemeanor battery | Wis. Stat. § 940.19(1) |
| • Battery to an unborn child | Wis. Stat. § 940.195 |
| • Battery, special circumstances | Wis. Stat. § 940.20 |
| • Battery or threat to health care providers and staff | Wis. Stat. § 940.204 |
| • Reckless endangerment | Wis. Stat. § 941.30 |
| • Invasion of privacy | Wis. Stat. § 942.08 |
| • Disorderly conduct | Wis. Stat. § 947.01(1) |
| • Harassment | Wis. Stat. § 947.013 |

Note: These eight convictions do not automatically render an individual ineligible for employment or contract as a caregiver. However, entities may refuse to employ or contract with the individual to work as a caregiver if, in the estimation of the entity, the conviction was substantially related to client care.

2. The individual discloses a conviction for a crime that does not appear in the criminal history record obtained from the Department of Justice (DOJ).
3. The criminal history record obtained from the DOJ indicates the individual was charged for a crime in TABLE I or TABLE II (as applicable), but the individual has not yet been convicted or the charges have not yet been dismissed.

REQUIREMENT TO OBTAIN DISCHARGE PAPERS FROM THE ARMED FORCES

If an individual served in a branch of the U.S. armed forces within the last 3 years, the entity is required to make a good faith effort to verify the individual’s discharge status by obtaining discharge documentation from the individual or the armed forces. If the discharge status is other than honorable, the entity shall obtain information on the nature and circumstances of the discharge.

¹ The offenses listed in TABLE I or TABLE II also affect eligibility for regulatory approval (ex. license or certification) or non-client residency in entity facilities.

**TABLE I: Offenses Affecting Eligibility
Entities and Programs Serving Only Persons 18 Years of Age or Older**

The following convictions and offenses render a person ineligible for employment or contracting as a caregiver and prohibit regulatory approval (such as a license or certification) or non-client residency in entity facilities that serve clients 18 years of age or older. [Rehabilitation review](#) may restore this eligibility.

CONVICTIONS	
Wisconsin State Statute	Crime
940.01	First degree intentional homicide
940.02	First degree reckless homicide
940.03	Felony murder
940.05	Second degree intentional homicide
940.12	Assisting suicide
940.19(2), (3), (4), (5) or (6)	Battery; substantial battery; aggravated battery (felony)
940.198 (2)	Intentional causation of bodily harm
940.22(2) or (3)	Sexual exploitation by therapist; duty to report
940.225(1), (2) or (3)	Sexual assault (first, second, or third degree)
940.285(2)	Abuse of individuals at risk
940.29	Abuse of residents of penal facilities
940.295	Abuse and neglect of patients and residents
948.02(1)	Sexual assault of a child (first degree)
948.025	Engaging in repeated acts of sexual assault of the same child
948.03(2)(a) or 948.03(5)(a)1., 2., or 3.	Physical abuse of a child (intentional causation of bodily harm) or engaging in repeated acts of physical abuse of the same child
	Violation of a law of any other state or US jurisdiction that would be a violation of any of the above.
OTHER OFFENSES	
Finding by a government agency of abuse or neglect of a client or of misappropriation of a client's property	
Finding by a government agency of child abuse or neglect	

**TABLE II: Offenses Affecting Eligibility
Entities and Programs Serving Any Persons Under the Age of 18 Years**

The following convictions and offenses render a person ineligible for employment or contracting as a caregiver and prohibit regulatory approval (such as a license or certification) or non-client residency in entity facilities or programs that serve any clients under 18 years of age. [Rehabilitation review](#) may restore this eligibility.

CONVICTIONS	
Wisconsin State Statute	Crime
940.01	First degree intentional homicide
940.02	First degree reckless homicide
940.03	Felony murder
940.05	Second degree intentional homicide
940.12	Assisting suicide
940.19(2), (3), (4), (5) or (6)	Battery; substantial battery; aggravated battery (felony)
940.198(2)	Intentional causation of bodily harm
940.22(2) or (3)	Sexual exploitation by therapist; duty to report
940.225(1), (2) or (3)	Sexual assault (first, second, or third degree)
940.285(2)	Abuse of individuals at risk
940.29	Abuse of residents of penal facilities
940.295	Abuse and neglect of patients and residents
948.02(1) or (2)	Sexual assault of a child (first and second degree)
948.025	Engaging in repeated acts of sexual assault of the same child
948.03(2)(b) or (c) or (5)(a)4	Physical abuse of a child (intentional causation of bodily harm) or engaging in repeated acts of physical abuse of the same child with a high probability of great bodily harm
948.05	Sexual exploitation of a child
948.051	Trafficking of a child
948.055	Causing a child to view or listen to sexual activity
948.06	Incest with a child
948.07	Child enticement
948.08	Soliciting a child for prostitution
948.085	Sexual assault of a child placed in substitute care
948.11(2)(a) or (am)	Exposing a child to harmful material or harmful descriptions or narrations
948.12	Possession of child pornography
948.13	Child sex offender working with children
948.21(2)	Neglecting a child
948.215	Chronic neglect; repeated acts of neglect of the same child
948.30	Abduction of another's child; constructive custody
948.53	Child unattended in child care vehicle
	Violation of a law of any other state or US jurisdiction that would be a violation of any of the above.
OTHER OFFENSES	
Finding by a government agency of abuse or neglect of a client or of misappropriation of a client's property	
Finding by a government agency of child abuse or neglect	