



WISCONSIN BACKGROUND CHECK AND MISCONDUCT INVESTIGATION PROGRAM: OFFENSES AFFECTING ELIGIBILITY FOR EMPLOYMENT OR CONTRACT IN ROLES WITH CLIENT CONTACT

Wisconsin Department of Health Services
Division of Quality Assurance
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INTRODUCTION

Sections [50.065, Wis. Stats](#) and [ch. DHS 12, Wis Admin. Code](#) establish requirements for [entities](#) to verify eligibility of prospective employees and contractors to serve in roles with regular and direct client contact (*caregiver background checks*). At a minimum, *entities* must conduct and document [caregiver background checks](#) before hiring or contracting with an individual and every four years thereafter.

ELIGIBILITY REQUIREMENTS

Pursuant to ss. 50.065 (4m)(b) and (5m), Wis. Stats.:

- An entity may not employ or contract with an individual to serve as a [caregiver](#), if the [caregiver background check](#) (including the [BID form, F-82064](#)) indicates an offense listed in TABLE I or TABLE II below and the individual has not provided proof of [rehabilitation review](#) approval. A criminal record that indicates “not guilty,” “no prosecution,” “dropped,” or “dismissed” means that the person was not convicted of the crime for which they were charged.
- An entity may refuse to employ or contract with a caregiver, if the caregiver has been convicted of an offense that is not listed in TABLE I or TABLE II, but that, in the estimation of the entity, is substantially related to the care of a client. **Note:** The offenses listed in TABLE I or TABLE II also affect eligibility for [entity operator and non-client residence approval](#) from the Department.

REQUIREMENTS TO OBTAIN CRIMINAL COMPLAINT AND JUDGMENT OF CONVICTION

Entities must obtain the criminal complaint and, if convicted, a Judgment of Conviction from the Clerk of Courts in the county where the person was charged or convicted, in any of the following circumstances:

- The individual reports a conviction for a crime that does not appear in the criminal history record obtained from the Department of Justice (DOJ).
- The criminal history record obtained from the DOJ indicates the individual was charged for a crime in TABLE I or TABLE II, but the individual has not yet been convicted or the charges have not yet been dismissed.
- The [BID form, F-82064](#) or criminal history record obtained from the DOJ indicates a conviction for any of the following, and the conviction occurred **five years or less** from the date on which the information was obtained.
 1. Misdemeanor battery Wis. Stat. § 940.19(1)
 2. Battery to an unborn child Wis. Stat. § 940.195
 3. Battery, special circumstances Wis. Stat. § 940.20
 4. Battery or threat to health care providers and staff Wis. Stat. § 940.204
Wis. Stat. § 941.30
 5. Reckless endangerment Wis. Stat. § 942.08
 6. Invasion of privacy Wis. Stat. § 947.01(1)
 7. Disorderly conduct Wis. Stat. § 947.013
 8. Harassment

Note: These eight convictions do not prohibit employment or contract but do require the entity to obtain the criminal complaint and judgment of conviction from the Clerk of Courts office in the county where the person was convicted.

REQUIREMENT TO OBTAIN DISCHARGE PAPERS FROM THE ARMED FORCES

If a person served in a branch of the U.S. armed forces, including any reserve component, within the last 3 years, the agency or entity shall make a good faith effort to obtain the discharge status of that person, either from the discharge papers issued to the person or from the armed forces branch in which the person served.

If the discharge status is other than honorable, the agency or entity shall obtain information on the nature and circumstances of the discharge.

CRIMINAL CONVICTIONS AND GOVERNMENTAL FINDINGS AFFECTING ELIGIBILITY

TABLE I

Entities and Programs Serving Only Persons 18 Years of Age or Older

Regulatory approval, employment as a caregiver, and non-client residency at or contracting with an entity are prohibited until rehabilitation approval is received for all programs and entities that serve only clients 18 years of age or older.

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	

CRIMINAL CONVICTIONS AND GOVERNMENTAL FINDINGS AFFECTING ELIGIBILITY**TABLE II****Entities and Programs Serving Any Persons Under the Age of 18 Years**

Regulatory approval, employment as a caregiver, and non-client residency at or contracting with an entity are prohibited until rehabilitation approval is received for all programs and entities that serve any clients who are under the age of 18.

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	