

WISCONSIN CAREGIVER PROGRAM OFFENSES AFFECTING CAREGIVER ELIGIBILITY FOR CHAPTER 50 PROGRAMS

INTRODUCTION

This document lists Wisconsin crimes and other offenses that the Wisconsin State Legislature, under the Caregiver Law, Chapter 50.065, Wis. Stats., has determined require rehabilitation review approval before a person may receive regulatory approval, work as a caregiver, reside as a non client resident at, or contract with an entity.

For more information, see DQA publication P-00038, *Wisconsin Caregiver Program Manual*, at:

<http://www.dhs.wisconsin.gov/publications/DQAnum.asp>

Unless the person is approved through the Rehabilitation Review process, the crimes and findings by government agencies included on the Offenses List (Tables I and II), and comparable crimes and offenses from other states or other U.S. jurisdictions, prohibit:

- employment as a caregiver in regulated entities;
- licensure, certification, or registration of a person to operate an entity; and
- residence of a non client resident.

Any conviction not on the Offenses List may be determined to be substantially related to the duties or the circumstances of the job. This may result in:

- refusal to hire a candidate for that reason, although an employer is not required to bar the person from employment;
- denial, revocation, or suspension of a license, certificate, or approval or registration; or
- denial of residency of a non client resident.

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.

Additional information must be obtained when:

1. The person reports a conviction for a crime on the Offense List that does not appear on the Department of Justice (DOJ) report to the criminal history record request.
2. The DOJ report does not provide a conclusive disposition on a criminal charge for a crime on the Offense List;
3. The military discharge was other than “honorable;” or
4. The Background Information Disclosure (BID) or DOJ response indicates a conviction of any of the following, where the conviction occurred five years or less from the date on which the information was obtained.
 - Misdemeanor battery s. 940.19(1), Wis. Stats.
 - Battery to an unborn child s. 940.195, Wis. Stats.
 - Battery, special circumstances s. 940.20, Wis. Stats.
 - Reckless endangerment s. 941.30, Wis. Stats.
 - Invasion of privacy s. 942.08, Wis. Stats.
 - Disorderly conduct s. 947.01, Wis. Stats.
 - Harassment s. 947.013, Wis. Stats.

Note: These seven convictions do not prohibit employment, 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.

**WISCONSIN CAREGIVER PROGRAM
OFFENSES AFFECTING CAREGIVER ELIGIBILITY FOR CHAPTER 50 PROGRAMS**

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	Offense
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)
940.22 (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)	Physical abuse of a child (intentional causation of bodily harm)
	Violation of the law of any other state or U.S. 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

**WISCONSIN CAREGIVER PROGRAM
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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	Offense
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)
940.22 (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)(a), (b) or (c)	Physical abuse of a child (intentional causation of 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 (1)	Neglecting a child
948.30	Abduction of another's child; constructive custody
948.53	Child unattended in child care vehicle
	Violation of the law of any other state or U.S. 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