

Chapter HFS 12

APPENDIX A

OFFENSES AFFECTING CAREGIVER ELIGIBILITY

SEPTEMBER, 2000

INTRODUCTION

This document lists Wisconsin crimes and other offenses that the Wisconsin State Legislature, under the Caregiver Law, ss. 48.685 and 50.065, Stats., has determined either require rehabilitation review approval before a person may receive regulatory approval, may work as a caregiver, may reside as a nonclient resident at or contract with an entity, or that act to permanently bar a person from receiving regulatory approval to be a foster parent.

Note: This table reflects changes in the caregiver law made by 1999 Wisconsin Act 9.

If a person has been convicted of a crime in another state or jurisdiction, the entity or regulatory agency must locate on the table below the Wisconsin crime that is identical or most similar to the crime for which the person was convicted and apply the consequence identified. This instruction also applies if the person was convicted in Wisconsin, but the statute number or crime title has been changed or amended. For example, convictions under Chapter 961, the Uniform Controlled Substances Act, were previously convictions under Chapter 161.

Notwithstanding s. 111.335, Stats., ss. 48.685 (5m) and 50.065 (5m), Stats., permit a regulatory agency to deny regulatory approval or an entity to refuse to employ, contract with or permit to reside at the entity a person whom the regulatory agency or entity determines has been convicted of a crime that is “substantially related” to the care of a client. The agency or entity may review a conviction to make that determination when: (a) The person has been convicted in Wisconsin or another state or jurisdiction of any crime that is not listed in this appendix; or (b) The person has been convicted of a crime that is listed in part III. of this appendix for foster care purposes only.

Under the Caregiver Law, current limitations on a person’s professional credentials may limit the person’s eligibility for employment or licensure in a position for which the person must be credentialed by the department of regulation and licensing.

If a Background Information Disclosure form, a caregiver background check, or any other information shows that a person was convicted of any of the offenses immediately below within 5 years before the information was obtained, the department, county department, child welfare agency, school board, or entity, as applicable, shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that conviction.

940.19 (1)	Misdemeanor battery
940.195	Battery to an unborn child
940.20	Battery, special circumstances
941.30	Reckless endangerment
942.08	Invasion of privacy
947.01	Disorderly conduct
947.013	Harassment

I. Entities and Programs Serving Only Persons 18 Years of Age or Older	
CONVICTIONS	
Regulatory approval, employment as a caregiver, and nonclient 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.	
Wis. Stats.	Crime
940.01	First degree intentional homicide
940.02	1st degree reckless homicide
940.03	Felony murder
940.05	2nd degree intentional homicide
940.12	Assisting suicide
940.19 (2) through (6)	Battery (felony)
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report
940.225 (1), (2), or (3)	1st, 2nd, or 3rd degree sexual assault
940.285	Abuse of vulnerable adults (misdemeanor or felony)
940.29	Abuse of residents of a penal facility
940.295	Abuse or neglect of patients and residents (misdemeanor or felony)
948.02 (1)	1st degree sexual assault of a child
948.025	Repeated acts of sexual assault of a child
948.03 (2) (a)	Physical abuse of a child – intentional – cause great bodily harm
OTHER OFFENSES	
—	Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property
—	Finding by a governmental agency of child abuse or neglect

II. Entities and Programs Serving Any Clients Under the Age of 18	
CONVICTIONS	
Regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are prohibited until rehabilitation approval is received, for all entities and programs that serve any clients who are under the age of 18. (For additional federal foster care bars, see part III. below.)	
Wis. Stats.	Crime
940.01	First degree intentional homicide
940.02	1st degree reckless homicide
940.03	Felony murder
940.05	2nd degree intentional homicide
940.12	Assisting suicide
940.19 (2) through (6)	Battery (felony)
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report
940.225 (1), (2), or (3)	1st, 2nd, or 3rd degree sexual assault
940.285	Abuse of vulnerable adults (misdemeanor or felony)
940.29	Abuse of residents of a penal facility
940.295	Abuse or neglect of patients & residents (misdemeanor or felony)
948.02 (1) or (2)	1st or 2nd degree sexual assault of a child
948.025	Repeated acts of sexual assault of 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
948.055	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
948.11 (2)(a) or (am)	Exposing child to harmful material or harmful descriptions or narrations (felony)
948.12	Possession of child pornography
948.13	Child sex offender working with children
948.21 (1)	Neglect of a child – resulting in death (felony)
948.30	Abduction of another's child; constructive custody
OTHER OFFENSES	
—	Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property
—	Finding by a governmental agency of child abuse or neglect

III. Foster Care CONVICTIONS

By federal or state law, for **Foster Homes and Treatment Foster Homes**, regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are barred as follows:

Permanent bar = Conviction acts as permanent bar.
 Spouse = Permanent bar applies when spouse was the victim in the offense.
 5 years = Bar is for 5 years from time crime committed.
 Spouse / 5 years / R = If spouse was the victim, bar is permanent. In other cases, bar is for 5 years from time crime committed; then must show rehabilitation.
 Spouse / 5 years = If spouse was the victim, bar is permanent. In other cases, bar is for 5 years from time crime committed.
 Bar w/ rehab = Regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are barred until rehabilitation approval is received.

Wis. Stats.	Crime	Federal law / Foster Care Bar
940.01	First degree intentional homicide	Permanent bar
940.02	1st degree reckless homicide	Permanent bar
940.03	Felony murder	Permanent bar
940.05	2nd degree intentional homicide	Permanent bar
940.06	2nd degree reckless homicide	Permanent bar
940.12	Assisting suicide	Bar w/ rehab
940.19 (2) through (6)	Battery (felony)	Spouse / 5 years / R
940.20	Battery – special circumstances	5 years
940.20 (1) or (1m)	Battery – special circumstances	Spouse
940.203	Battery or threat to judge	5 years
940.205	Battery or threat to a Department of Revenue employee	5 years
940.207	Battery or threat to a Department of Commerce or DWD employee	5 years
940.21	Mayhem	Permanent bar
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report	Bar w/ rehab
940.225 (1), (2), or (3)	1st, 2nd, or 3rd degree sexual assault	Permanent bar
940.23	Reckless injury	Permanent bar
940.285	Abuse of vulnerable adults (misdemeanor or felony)	Bar w/ rehab
940.29	Abuse of residents of a penal facility	Bar w/ rehab
940.295	Abuse or neglect of patients or residents (misdemeanor or felony)	Bar w/ rehab
940.305	Taking hostages	Permanent bar
940.31	Kidnapping	Permanent bar
941.20 (2) or (3)	Endangers safety by use of a dangerous weapon	Permanent bar
941.21	Disarming a peace officer	Permanent bar
943.10(2)	Burglary while armed	Permanent bar
943.23 (1g), (1m) or (1r)	Operating motor vehicle without owner's consent (OMVWOC)	Permanent bar

943.32 (2)	Robbery with dangerous weapon	Permanent bar
948.02 (1), (2), (3), or (3m)	1st or 2nd degree sexual assault of a child; failure to act; penalty enhancement	Permanent bar
948.025	Repeated acts of sexual assault of a child	Permanent bar
948.03 (2), (3), or (4)	Physical abuse of a child	Permanent bar
948.04	Causing mental harm to a child	Permanent bar
948.05	Sexual exploitation of a child	Permanent bar
948.055	Causing a child to view or listen to sexual activity	Permanent bar
948.06	Incest with a child	Permanent bar
948.07	Child enticement	Permanent bar
948.08	Soliciting a child for prostitution	Permanent bar
948.095	Sexual assault of student by school staff	Permanent bar
948.11 (2)(a) or (am)	Exposing child to harmful material or harmful descriptions or narrations (felony)	Permanent bar
948.12	Possession of child pornography	Permanent bar
948.13	Child sex offender working with children	Permanent bar
948.20	Abandonment of a child	Permanent bar
948.21 (1)	Neglect of a child – resulting in death (felony)	Permanent bar
948.22	Failure to support (felony)	Permanent bar
948.23	Concealing death of a child	Permanent bar
948.24	Unauthorized placement for adoption	Permanent bar
948.30	Abduction of another's child; constructive custody	Permanent bar
948.31	Interference with custody by parent or others	Permanent bar
948.35	Solicitation of a child to commit a felony	Permanent bar
948.36	Use of a child to commit a class A felony	Permanent bar
948.40	Contributing to the delinquency of a minor (felony)	Permanent bar
948.51	Hazing (felony)	Permanent bar
948.60	Possession of a dangerous weapon by a person under 18 (felony)	Permanent bar
948.605 (3)	Gun-free school zones; discharge of firearm in a school zone (felony)	Permanent bar
948.61	Dangerous weapons other than firearms on school premises (felony)	Permanent bar
948.62	Receiving stolen property from a child (felony)	Permanent bar
—	All other Chapter 948 crimes that are felonies	Permanent bar
961.41 (1)	Manufacture, distribution or delivery (felony)	5 years
961.41 (1m)	Possession with intent to manufacture, distribute, or deliver (felony)	5 years
961.41 (3g)	Possession (felony)	5 years
961.43 (1)(a)	Acquire or obtain possession of controlled substances by fraud, misrepresentation, or forgery, deception, or subterfuge (felony)	5 years
961.43 (1)(b)	To possess/make a counterfeit substance or to duplicate the appearance, packaging, form or label of a controlled substance (felony)	5 years
961.455	Using a child for illegal drug distribution or manufacturing purposes (felony)	5 years
961.46	Distribution to persons under 18 (felony)	5 years

961.465	Distribution to prisoners	5 years
961.49	Distribution of or possession with intent to deliver at or near certain places	5 years
961.492	Distribution of or possession with intent to deliver on public transit (felony)	5 years
—	All other ch. 961 offenses that are felonies	5 years
OTHER OFFENSES		
—	Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property	Bar w/ rehab
—	Finding by a governmental agency of child abuse or neglect	Bar w/ rehab