

Barred Crimes and Other Offenses Pursuant to Wis. Stat. s. 48.685 Foster Care and Subsidized Guardianship

This table applies to applicants for an initial foster care license, renewal foster care license, interim caretakers and successor guardians receiving subsidized guardianship payments, and adoptive parents receiving adoption assistance. Some convictions are a bar unless the person obtains rehabilitation approval, some are a bar for 5 years after the crime is committed and then require rehabilitation approval, and some are a permanent bar. The procedures for obtaining rehabilitation approval are in chapter DCF 12 of the Wisconsin Administrative Code.

Regulatory approval, employment as a caregiver, nonclient residency at, and contracting with an entity are barred as follows:

Wis. Stat.	Conviction	Bar
125.075 (1)	Injury or death by providing alcoholic beverages to a minor	Bar for 5 years after crime committed, then bar unless rehabilitation approval
125.085 (3) (a) 2.	Make, alter, duplicate ID for money or other compensation	Bar for 5 years after crime committed, then bar unless rehabilitation approval
125.105 (2) (b)	Impersonate or abet impersonation of an inspector, agent, or employee of Dept. of Revenue or Justice	Bar for 5 years after crime committed, then bar unless rehabilitation approval
125.66 (3)	Manufacture or rectify intoxicating liquor without a permit	Bar for 5 years after crime committed, then bar unless rehabilitation approval
125.68 (12)	Recover, use, conceal, or dispose of alcohol from denatured alcohol	Bar for 5 years after crime committed, then bar unless rehabilitation approval
346.63 (1), (2), (5) or (6)	Operating or causing injury by intoxicated use of a motor vehicle if a felony under s. 346.65 (2) (am) 4., 5., 6., or 7., or (f); (2j) (d); or (3m), Stats.	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.01	1 st degree intentional homicide	Permanent bar
940.02	1 st degree reckless homicide	Permanent bar
940.03	Felony murder	Permanent bar
940.05	2 nd degree intentional homicide	Permanent bar
940.06	2 nd degree reckless homicide	Permanent bar
940.09	Homicide by intoxicated use of vehicle or firearm	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.12	Assisting suicide	Bar unless rehabilitation approval
940.19 (2), (4), (5), or (6)	Battery (felony)	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.19 (2), (4), (5), or (6)	Battery, if victim is spouse (felony)	Permanent bar
940.19 (3), 1999 Stats.	Battery (felony)	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.19 (3), 1999 Stats.	Battery, if victim is spouse (felony)	Permanent bar
940.198(2)	Physical abuse of an elder person- intentional causation of bodily harm	Bar unless rehabilitation approval
940.20 (1) or (1m)	Battery by prisoners or battery by persons subject to certain injunctions, if victim is spouse	Permanent bar
940.20	Battery: special circumstances	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.203	Battery or threat to judge	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.204	Battery or threat to health care providers and staff	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.205	Battery or threat to Dept. of Revenue employee	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.207	Battery or threat to Dept. of Safety and Professional Services or Workforce Development employee	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.21	Mayhem	Permanent bar

Wis. Stat.	Conviction	Bar
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report	Bar unless rehabilitation approval
940.225 (1), (2), or (3)	1 st , 2 nd , 3 rd degree sexual assault	Permanent bar
940.23	Reckless injury	Permanent bar
940.25	Injury by intoxicated use of a vehicle	Bar for 5 years after crime committed, then bar unless rehabilitation approval
940.285 (2)	Abuse of vulnerable adults (misdemeanor or felony)	Bar unless rehabilitation approval
940.29	Abuse of residents of a penal facility	Bar unless rehabilitation approval
940.295	Abuse or neglect of patients and residents (misdemeanor or felony)	Bar unless rehabilitation approval
940.302 (2) if s. 940.302 (2) (a) 1.b. applies	Human trafficking for purposes of a commercial sex act	Bar unless rehabilitation approval
940.305	Taking hostages	Permanent bar
940.31	Kidnapping	Permanent bar
941.20 (2) or (3)	Endangering safety by use of dangerous weapon (felony)	Permanent bar
941.21	Disarming a peace officer	Permanent bar
942.09 (2)	Representations depicting nudity (felony)	Bar unless rehabilitation approval
943.10 (2)	Armed burglary or burglary with battery	Permanent bar
943.23 (1m) or (1r), 1999 Stats.	Operating a motor vehicle without the owner's consent, use of force	Permanent bar
943.231(1)	Carjacking while possessing a dangerous weapon and by the use of, or threat of use of force or the weapon against another, intentionally takes any vehicle without the consent of the owner	Permanent bar
943.32 (2)	Robbery with a dangerous weapon	Permanent bar
948.21(3)(f)	Neglecting a child (misdemeanor)	Bar unless rehabilitation approval
948.53 (2) (b) 1.	Child unattended in childcare vehicle (misdemeanor)	Bar unless rehabilitation approval
Any offense pursuant to Wis. Stat. ch. 948, that is a felony	Crimes Against Children	Permanent bar
Any offense pursuant to Wis. Stat. ch. 961, that is a felony	Uniform Controlled Substances Act (Includes convictions under previous numbering Wis. Stat. ch. 161)	Bar for 5 years after crime committed, then bar unless rehabilitation approval
	Other Offenses	
	Finding by a governmental agency of neglect or abuse of a client or of misappropriation of a client's property	Bar unless rehabilitation approval
	Finding by a governmental agency of child abuse or neglect	Bar unless rehabilitation approval

Note: Any comparable offense or conviction under federal law or another state's law has the same categorization as crimes and offenses included on this list.

Note: This appendix is based in pursuant to 48.685 (1) (c), (5) (a), and (5) (bm), of the Wisconsin Statutes and 42 U.S.C. s. 671(20).

Additional Information on Background Checks for Foster Homes

Wisconsin Stat. s. 48.685, requires licensing agencies to conduct background checks before licensing foster parents. Background check requirements for foster homes are outlined in Wis. Admin. Code ch. DCF 56.055. Background check requirements for an agency to provide subsidized guardian payments to an interim caretaker or determine that a prospective successor guardian is eligible to enter into a subsidized guardianship agreement are outlined in Wis. Admin. Code ch. DCF 55.13.

Substantially Related

Agencies must also review the circumstances of convictions of any offense that is not barred by the statute to determine if the crime is substantially related to the care of a foster child. Wisconsin Admin. Code ch. DCF 12.06 provides factors for the licensing agency to consider in determining whether a crime is substantially related. Wisconsin Stat. s. 48.685 (5m), states the licensing agency may refuse to license a foster home if the applicant has been convicted of an offense that is not a serious crime, but the licensing agency has determined the crime substantially relates to the care of a client. Rehabilitation approval is not available for crimes that are not listed on the barred crimes list. If licensing agency has determined a crime substantially relates to the care of a foster child and denies the applicant a foster care license, the applicant may appeal the denial decision and request a hearing with the Division of Hearings and Appeals in accordance with Wis. Admin. Code s. DCF 56.10.

Follow-up information requirements for background checks, pursuant to Wis. Admin. Code ch. DCF 56.055(3) and Wis. Admin. Code ch. DCF 55.13(3) Admin. Code

- (a) If the DOJ criminal history indicates a charge of a crime that would be a bar but does not clearly indicate whether there was a conviction, the person was found not guilty, or the charge was dropped or dismissed, the licensing agency must make reasonable efforts to determine the final disposition of the charge.
- (b) If the person's background information disclosure indicates a charge or conviction of a barred crime but the DOJ criminal history does not include the charge or conviction, the licensing agency must make every reasonable effort to contact the clerk of courts to obtain a copy of the complaint and the final disposition.
- (c) Agencies shall make every reasonable effort to obtain a copy of the criminal complaint and judgement of conviction and make the substantially related determination if a person was convicted of any of the following crimes less than 5 years before the agency obtained the information for the following:

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(1)	Disorderly conduct
947.013	Harassment

The Department of Children and Families is an equal opportunity employer and service provider. If you have a disability and need to access services, receive information in an alternate format, or need information translated to another language, please call the Rehabilitation Review Coordinator at (608) 266-8787. Individuals who are deaf, hard of hearing, deaf-blind or speech disabled can use the free Wisconsin Relay Service (WRS) – 711 to contact the Department.