

Chapter HFS 12

APPENDIX A CRIMES LIST MAY 1999

This document contains a list of Wisconsin crimes current as of September 16, 1998. The statute numbers have been provided on this table for ease in identifying crimes. Unless otherwise indicated, the crimes listed have been determined by the Department of Health and Family Services to be "substantially related" to positions covered by the Caregiver Law, secs. 48.685 and 50.065, Stats.

Crimes also charged under Ch. 939, Wis. Stats., are to be treated as provided for the companion crime, unless otherwise indicated. For example, secs. 939.05, 943.10(2) (Party to the crime, Burglary while armed) would be in the "bar with rehab" category because the list provides that "Burglary while Armed" is in that category. However, secs. 939.32, 940.01 (Attempted 1st Degree Intentional Homicide) would be in the "bar with rehab" category rather than in the "permanent bar" category because there is a special condition or comment that so indicates.

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 which 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.

Notwithstanding sec. 111.335, Wis. Stats., secs. 48.685(5m) and 50.065(5m), Wis. 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 this appendix but no longer requires rehabilitation review.

Under the Caregiver Law, other acts or offenses may carry regulatory or employment consequences. Persons with findings by a governmental agency of neglect or abuse of a client, or misappropriation of a client's property; persons with findings by a governmental agency of child abuse or neglect; and persons with current limitations on their professional credentials must demonstrate to the regulatory agency that they are rehabilitated.

CRIMES LIST AS APPLIED TO EMTs

Emergency medical technicians (EMTs) are covered as follows:

- "Permanent bar" crimes apply to licensed EMTs.
- An EMT must demonstrate rehabilitation (see s. HFS 12.12, Wisconsin Administrative Code) when there has been a finding by a governmental agency of abuse or neglect of a client or child, or misappropriation of a client's property.
- All other criminal convictions are subject to the "substantially related" analysis by the licensing agency and the employer.

KEY

- (F) = Applies if conviction was for Felony
- (M) = Applies if conviction was for Misdemeanor
- F = Conviction acts as bar (as indicated) for Foster Homes/Treatment Foster Homes
- sp = Bar applies when spouse was the victim in the offense
 - 5 yrs = Bar is for 5 years from time crime committed, then must show rehabilitation
- Shaded cell** = Bar or limitation applies to all programs (unless otherwise indicated)
- * = Special condition applies:
1. "Bar w/ rehab" if duties of position involve transporting clients and if date of conviction is within 5 years of request for review.
 2. "Bar w/rehab" if conviction is for attempted crime (s. 939.32, Stats.).
 3. "Bar w/ rehab" if offense was "domestic" or if date of conviction is within 5 years of request for review.
 4. "Bar w/ rehab" if date of conviction is within 5 years of request for review.
 5. "Bar w/ rehab" if offense was "domestic" or if date of conviction is within 10 years of request for review.
 6. "Bar w/ rehab" if person has access to children served by the entity.
 7. "Bar w/ rehab" if date of conviction is within 10 years of request for review.
 8. "Bar w/ rehab" if the person's duties bring person into contact with a client's property or funds and if date of conviction is within 5 years of the request for review.
 9. "Bar w/ rehab" if the person's duties bring person into contact with a client's property or funds and if date of conviction is within 10 years of the request for review.
 10. "Bar w/ rehab" if the person's duties bring person into contact with a client's property or funds or if date of conviction is within 5 years of the request for review.
 11. "Bar w/ rehab" unless person has access to children served by the entity or for Foster Care (then Permanent Bar).
 12. "Bar w/ rehab" if person has access to children served by the entity or if date of conviction is within 10 years of request for review.
 13. "Bar w/ rehab" if person has access to children served by entity or if date of conviction is within 5 years of request for review.
 14. "Bar w/ rehab" if date of conviction is within 10 years of request for review unless person has access to children served by the entity or for Foster Care (then Permanent Bar).

Chapter 346 Rules of the Road				
Wis. Stats.	Crime	Category I	Category II	Comment or Conditions
		Permanent Bar	Bar w/ rehab.	
346.63	Operating under influence of intoxicant or other drug (OWI or DWI)			
	• (F) If w/ passenger < 16		*	*1.
	• (F) If 3rd or greater offense		*	*1.
346.62(4)	Reckless Driving – cause great bodily harm (F)	F		
346.67	Hit & Run – causing great bodily harm or death (F)		*	*1
346.67	Hit & Run – bodily harm or property damage (M)		*	*1.
Chapter 940 Crimes Against Life and Bodily Security				
Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
940.01	1st° Intentional homicide		*	*2.
940.02	1st° Reckless Homicide	F		
940.03	Felony Murder	F		
940.05	2nd° Intentional homicide	F		
940.06	2nd° Reckless Homicide	F		
940.07	Homicide by negligent control of a vicious animal			
940.08	Homicide by negligent handling of dangerous weapon, explosives or fire	F		
940.09	Homicide by intoxicated use of vehicle or firearm			
940.12	Assisting suicide			
940.19 (1)	Battery (M)		*	*3.
940.19 (2) – (6)	Battery (F)	F – sp / 5yrs		
940.195	Battery to an unborn child		*	*3.
940.20	Battery – Special Circumstances	F – sp	*	*3.
940.201	Battery or threat to witnesses		*	*3.
940.203	Battery or threat to judge	F – 5 years	*	*4.
940.205	Battery or threat to a Dept. of Revenue employe	F – 5 years	*	*4.
940.207	Battery or threat to a Dept. of Commerce or DILHR employe	F – 5 years	*	*4.
940.21	Mayhem	F	*	*5.
940.22(2)	Sexual exploitation by therapist – sexual contact			
940.22(3)	Sexual exploitation by therapist – duty to report			
940.225(1)	1st° sexual assault		*	*2.
940.225(2)	2nd° sexual assault	F		
940.225(3)	3rd° sexual assault	F		
940.225 (3m)	4th° sexual assault			
940.23	Reckless Injury	F	*	*4.
940.25	Injury by intoxicated use of a vehicle		*	*1.
940.285 (2)(b)1 or 2	Abuse of vulnerable adults (F)		*	*2.
940.285 (2)(b)3, 4, or 5	Abuse of vulnerable adults (F or M)			
940.29	Abuse of residents of a penal facility			
940.291	Law enforcement officer – failure to render aid (M)		*	*4.
940.295	Abuse/neglect of patients & residents (F)		*	*2.
940.295	Abuse/neglect of patients & residents (M)			
940.30	False imprisonment		*	*5.
940.305	Taking hostages	F		

940.31	Kidnapping	F		
940.32	Stalking			
940.43	Intimidation of witnesses		*	*3.
940.45	Intimidation of victims (F or M)		*	*3.

**Chapter 941
Crimes Against Public Health and Safety**

Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
941.20(1)	Endangering safety – dangerous weapon (M)		*	*3.
941.20(2) or (3)	Endangers safety – dangerous weapon	F	*	*3.
941.21	Disarming a peace officer	F		
941.30	Recklessly endangering safety		*	*4.
941.32	Administering dangerous or stupefying drug		*	*4.
941.38	Criminal gang member solicitation and contact		*	*6.

**Chapter 942
Crimes Against Reputation and Civil Liberty**

Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
942.08	Invasion of privacy		*	*4.

**Chapter 943
Crimes Against Property**

Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
943.10 (1)	Burglary		*	*4.
943.10 (2)	Burglary while armed	F	*	*7.
943.20	Theft (M)		*	*8.
943.20	Theft (F)		*	*9.
943.201	Misappropriation of personal identifying information or documents		*	*10.
943.23(1g), (1m) or (1r)	OMVWOC	F	*	*7.
943.32 (1)	Robbery (F)		*	*4.
943.32 (2)	Robbery w/ dangerous weapon	F	*	*7.
943.50	Retail theft		*	*8.

**Chapter 944
Crimes Against Sexual Morality**

Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
944.20	Lewd & lascivious behavior		*	*7.
944.205	Photographs, motion pictures, videotapes, or other visual representations showing nudity		*	*4.

Chapter 946 Crimes Against Government and Its Administration				
Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
946.43	Assaults by prisoners		*	*4.
946.74(1)	Aiding escape from mental institution (M)		*	*4.
946.74(2)	Aid escape from mental institution (F)		*	*4
Chapter 947 Crimes Against Public Peace, Order and Other Interests				
Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
947.013	Harassment (M or F)		*	*3.
Chapter 948 Crimes Against Children				
Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
948.02(1)	1st ^o sexual assault of a child		*	*2.
948.02(2)	2nd ^o sexual assault of a child	F		
	• if person was, at the time of assault, more than 4 years older than the child		*	*2.
948.02(3)	Sexual Assault of a Child – Failure to Act	F		
948.02(3m)	Sexual Assault of a Child – Penalty enhancement; sexual assault by certain persons	F		
948.025	Repeated acts of sexual assault of same child	F		
	• if child has not attained the age of 13		*	*2.
	• if child was over 13 but under 16 and the person was more than 4 years older		*	*2.
948.03 (2)(a)	Physical Abuse of a child – Intentional – Cause Great Bodily Harm		*	*2.
948.03 (2)(b) or (c)	Physical Abuse of a child – Intentional – Cause Bodily Harm	F		
948.03(3)	Physical abuse of a child – reckless	F		
948.03(4)	Physical abuse of a child – failure to act	F		
948.04	Causing mental harm to a child	F		
948.05	Sexual exploitation of a child	F*	*	*11.
948.055	Causing a child to view or listen to sexual activity	F*	*	*11.
948.06	Incest with a child	F*	*	*11.
948.07	Child enticement	F*	*	*11.
948.08	Soliciting a child for prostitution	F*	*	*11.
948.09	Sexual intercourse with a child age 16 or older		*	*12.
948.095	Sexual assault of student by school staff	F	*	*12.
948.10	Exposing genitals or pubic area			
948.11 (2)(a) or (am)	Exposing child to harmful material or harmful descriptions or narrations (F)	F*	*	*11.
948.11 (2)(b)	Exposing child to harmful material or harmful descriptions or narrations (M)		*	*13.
948.12	Possession of child pornography	F*	*	*14.
948.13	Child sex offender working with children	F*	*	*14.
948.20	Abandonment of a child	F	*	*4.
948.21(1)	Neglect a child – result in death (F)	F		

948.21(1)	Neglecting a child (M)			
948.22	Failure to support (F)	F		
948.23	Concealing death of child	F		
948.24	Unauthorized placement for adoption	F		
948.30	Abduction of another's child; constructive custody	F*	*	*11.
948.31	Interference with custody by parent or others	F		
948.35	Solicitation of a child to commit a felony	F	*	*13.
948.36	Use of a child to commit a class A felony	F	*	*13.
948.40	Contributing to the delinquency of a minor (F)	F	*	*13.
948.40	Contributing to the delinquency of a minor (M)		*	*13.
948.51	Hazing (F)	F	*	*13.
948.60	Possession of a dangerous weapon by a person under 18 (F)	F		
948.605(3)	Gun-free school zones; Discharge of firearm in a school zone (F)	F		
948.61	Dangerous weapons other than firearms on school premises (F)	F		
948.62	Receiving stolen property from a child (F)	F		
All other ch. 948 Crimes that are felonies		F		

**Chapter 961
Uniform Controlled Substances Act
(NOTE: Previously Chapter 161)**

Wis. Stats.	Crime	Category I	Category II	Comments or Conditions
		Permanent Bar	Bar w/ rehab.	
961.41(1)	Manufacture, distribution or delivery (F)	F- 5yrs		
961.41 (1m)	Possession with intent to manufacture, distribute, or deliver (F)	F- 5yrs		
961.41 (3g)	Possession (F)	F- 5yrs		
961.43 (1)(a)	Acquire or obtain possession of controlled substances by fraud, misrepresentation, or forgery, deception, or subterfuge (F)	F- 5yrs		
961.43 (1)(b)	To possess/make a counterfeit substance or to duplicate the appearance, packaging, form or label of a controlled substance (F)	F- 5yrs		
961.455	Using a child for illegal drug distribution or manufacturing purposes (F)	F- 5yrs	*	*6.
961.46	Distribution to persons under 18 (F)	F- 5yrs	*	*6.
961.46	Distribution to persons under 18 (M)		*	*6.
961.465	Distribution to prisoners	F- 5yrs		
961.49	Distribution of or possession with intent to deliver at or near certain places	F- 5yrs		
961.492	Distribution of or possession with intent to deliver on public transit (F)	F- 5yrs		
961.575	Delivery of drug paraphernalia to a minor (M)		*	*6.
All other 961 offenses that are Felonies		F- 5 yrs		