



WISCONSIN BACKGROUND CHECK AND MISCONDUCT INVESTIGATION PROGRAM: CRIMINAL CONVICTIONS REQUIRING NOTIFICATIONS TO CLIENTS OR GUARDIANS

DEPARTMENT OF HEALTH SERVICES / Division of Quality Assurance

P-03164 (01/2024)

INTRODUCTION

Sections [50.065\(2m\)](#), [Wis. Stats.](#), and [DHS 12.115, Wis. Admin. Code](#), require [entities](#) that intend to place a [caregiver](#) in a client's residence, to provide certain written notifications to the client or their guardian, when that caregiver has been convicted of certain crimes.

Note: Convictions requiring notification may also prohibit employment or contract for roles with regular and direct patient contact. Entities must first verify the individual's eligibility for employment or contract by conducting a [caregiver background check](#) and by reviewing [Offenses Affecting Eligibility](#).

WHEN REQUIRED

Entities are required to provide written notifications to clients or their guardians when all the following conditions are met:

1. The treatment provider is an [entity](#) that employs or contracts with a [caregiver](#).
2. The caregiver is not a [substitute caregiver](#).
3. The caregiver provides [personal care services](#) in the client's residence.
4. The caregiver has a *conviction requiring notification* (see below).
5. The conviction does not otherwise prohibit employment/contracting as a caregiver (see [Offenses Affecting Eligibility](#).)

CONVICTIONS REQUIRING NOTIFICATION

WISCONSIN 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), (4), (5) or (6)	Battery (felony)
940.19 (3), 1999 Stats.	Battery
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 (2)	Abuse of individuals at risk
940.29	Abuse of residents of penal facilities
940.295	Abuse or neglect of patients and residents
943.20	Theft
943.201	Unauthorized use of an individual's personal identifying information or documents
943.203	Unauthorized use of an entity's identifying information or documents
943.32	Robbery
943.38	Forgery
943.41	Financial transaction card crimes
948.02 (1) or (2)	1st or 2nd degree sexual assault of a child
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
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

WISCONSIN STATUTE	CRIME
948.53	Child unattended in child care vehicle
961.41 (1)	Manufacture, distribution or delivery of a controlled substance or a controlled substance analog
961.41 (1m)	Possession with intent to manufacture, distribute or deliver a controlled substance or a controlled substance analog
961.41 (3g)	Possession or attempt to possess a controlled substance or a controlled substance analog. Only if the date of conviction is within 5 or fewer years from the date the results of the criminal background check are obtained by the entity.
961.43 (1) (a)	Acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge
961.43 (1) (b)	To make, distribute or possess material designed to reproduce the trademark upon any drug or container or label so as to make a counterfeit substance or to duplicate the physical appearance, form, package or label of a controlled substance
Other	A violation of the law of any other state or United States jurisdiction that would be a violation of a crime listed in this table

NOTIFICATION REQUIREMENTS

Pursuant to [s. 50.065\(2m\)\(a\) and \(c\), Stats.](#), the following notifications and information¹ must be provided to the client or guardian in writing, (1) before the caregiver provides services to the client, and (2) whenever the entity conducts a 4-year caregiver background check renewal:

1. Criminal History Record from the Wisconsin Department of Justice's [Wisconsin Online Record Check System \(WORCS\)](#).
2. Information obtained by the entity, pursuant to [s. 50.065\(2\) \(bb\), Stats.](#), regarding any pending charges or Conviction Requiring Notification.
3. Notification of whether the caregiver has demonstrated receipt of [Rehabilitation Review](#) approval from DHS for the conviction.
4. Information contained on the [Misconduct Registry](#) regarding any findings of abuse, neglect, or misappropriation of client property.
5. Information under [s. 50.065\(2\) \(b\) 4., Stats.](#), regarding any final determination that the individual has abuse or neglected a child.
6. Information under [s. 50.065\(2\)\(b\)5.Stats.](#), regarding any denial to the person of a license, certification, certificate of approval or registration to operate an entity and regarding any denial to the person of employment or contract, or permission to reside at an entity.
7. Notification that, for a fee, the Wisconsin Department of Justice performs for any person a criminal history record search on an individual.
8. Notification that if the regularly assigned caregiver is unavailable and the entity assigns a substitute caregiver to provide personal care services to the client, the entity is not required to provide the disclosures under s. 50.065(2m)(a) 1. or 2. (or 1 - 6 above) for the substitute caregiver.

¹ Note: This information is obtained by entities when conducting a [Caregiver Background Check](#) for their employees or contractors.