

Eau Claire County Treatment Courts Collaborative

Violent Offender Workgroup

POLICY

This policy provides guidance to the Triage Team regarding the legal eligibility and appropriateness of referred persons for an Eau Claire County Treatment Court in relation to those restrictions imposed by the state Treatment Alternatives and Diversion (TAD) Grant.

The TAD Grant places the following restrictions on program eligibility:

The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.

The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm.

Per Eau Claire County policy, the Triage Team shall assume the following about these restrictions:

- A referred person may be excluded from participation in a treatment court due to “violent offender” status only if the applicable charge or conviction is a felony.
- Automatic exclusions for past convictions shall apply only when the conviction occurred during the 10 years prior to referral. After the 10 years have passed, the conviction shall be considered potential grounds for exclusion.
- In those cases where a charge or conviction is potential grounds for conviction, the following criteria shall be considered by the Triage Team to determine whether the person remains appropriate for acceptance into a treatment court:
 - o Use of force
 - o Repeated acts
 - o Age of the crime
 - o Age of the person at the time the crime was committed
 - o Successful treatment completion
 - o Victim agreement with placement in the treatment court.

The Triage Team shall determine whether the person is excluded from participation due to violent offender status prior to proceeding with standard screening activities. The District Attorney’s office generally shall be responsible for notifying the Triage Team if a person is or may be excluded from participation due to a past conviction or pending charge.

Those convictions and/or charges that automatically and potentially exclude a person from participation in a treatment court are indicated in the grid below. An “X” indicates an automatic exclusion from treatment court eligibility, while an “*” indicates potential exclusion upon further review of the case.

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Crime	Past Conviction	Pending Charge/ Current Conviction
940.01 – First-degree intentional homicide	X	X
940.02 – First-degree reckless homicide		X
940.03 – Felony murder		X
940.05 – Second-degree intentional homicide	X	X
940.06 – Second-degree reckless homicide		X
940.07 – Homicide resulting from negligent control of a vicious animal		X
940.08 – Homicide by negligent handling of a dangerous weapon, explosives or fire		X
940.09 – Homicide by intoxicated use of a vehicle or firearm		X
940.10 – Homicide by negligent operation of a vehicle		X
940.12 – Assisting suicide	X	X
940.19 – Battery; substantial battery; aggravated battery Except 940.19(1) – misdemeanor Except 940.19(5)&(6) – see below		X
940.19(5) – Battery (great bodily harm with intent to cause great bodily harm)	X	X
940.19(6) – Battery (intent to cause bodily harm with substantial risk of great bodily harm to person 62+ or with physical disability)	X	X
940.195 – Battery to an unborn child; substantial battery to an unborn child; aggravated battery to an unborn child Except 940.195(1) – misdemeanor Except 940.195(5)&(6) – see below		X
940.195(5) – Battery to an unborn child (great bodily harm to unborn child or woman pregnant with the child with intent)	X	X
940.195(6) – Battery to an unborn child (intent to cause bodily harm by conduct that creates substantial risk of great bodily harm)	X	X
940.20 – Battery: special circumstances (e.g., battery by prisoners)		X
940.201 – Battery or threat to witnesses		X
940.203 – Battery or threat to judge		X
940.205 – Battery or threat to department of revenue		X
940.207 – Battery or threat to department of safety and professional services or department of workforce development employee		X
940.208 – Battery to certain employees of counties, cities, villages, or towns		X
940.21 – Mayhem (intent to disable or disfigure)	X	X
940.225(1)(a) – First-degree sexual assault (causes pregnancy or great bodily harm)	X	X
940.225(1)(b) – First-degree sexual assault (use or threat of use of a dangerous weapon)	*	X
940.225(1)(c) – First-degree sexual assault (aided or abetted by one or more other persons by use or threat of force or violence)	*	X
940.225(2)(a) – Second-degree sexual assault (use or threat of force or violence)	*	X

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Crime	Past Conviction	Pending Charge/ Current Conviction
940.225(2)(b) – Second-degree sexual assault (causes injury, illness, disease or impairment of organs)	*	X
940.225(2)(c) – Second-degree sexual assault (defendant knows the person suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person’s conduct)	*	*
940.225(2)(cm) – Second-degree sexual assault (defendant knows the person is under the influence of an intoxicant to a degree which renders that person incapable of giving consent)	*	*
940.225(2)(d) – Second-degree sexual assault (person knows the person is unconscious)	*	*
940.225(2)(f) – Second-degree sexual assault (aided or abetted by one or more other persons)	*	X
940.225(2)(g) – Second-degree sexual assault (defendant is an employee of an adult family home, community-based residential facility, inpatient health care facility or state treatment facility)	*	*
940.225(2)(h) – Second-degree sexual assault (actor is a correctional staff member and the individual is confined in a correctional institution)	*	*
940.225(2)(i) – Second-degree sexual assault (actor is a probation, parole or extended supervision agent and the individual is under supervision)	*	*
940.225(2)(j) – Second-degree sexual assault (defendant is a licensee, employee or non-client resident of a child welfare or similar agency or a facility, organization or service licensed, certified or registered to provide direct care or treatment services to clients)	*	*
940.225(3) – Third-degree sexual assault	*	*
940.23 – Reckless injury		X
940.235 – Strangulation and suffocation	*	X
940.24 – Injury by negligent handling of dangerous weapon, explosives or fire		X
940.25(1) – Injury by intoxicated use of a vehicle (great bodily harm)	*	X
940.285 – Abuse of individuals at risk		X
940.29 – Abuse of residents of penal facilities		*
940.295 – Abuse and neglect of patients and residents		*
940.30 – False imprisonment		X
940.302 – Human trafficking	*	X
940.305 – Taking hostages	*	X
940.31 – Kidnapping	*	
940.32 – Stalking Except (3)		*
940.32(3) – Stalking (results in bodily harm; person has a previous conviction for violent crime or stalking; person uses a dangerous weapon)		X
940.43 – Intimidation of witnesses (felony)		X
940.45 – Intimidation of victims (felony)		X

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Crime	Past Conviction	Pending Charge/ Current Conviction
941.11(1) – Unsafe burning of buildings	X	*
941.20 – Endangering safety by use of dangerous weapon		X
941.21 – Disarming a peace officer		X
941.26 – Machine guns and other weapons; use in certain cases; penalty		*
941.28 – Possession of short-barreled shotgun or short-barreled rifle		*
941.29 – Possession of a firearm		*
941.295 – Possession of electric weapon		*
941.296 – Use or possession of a handgun and an armor-piercing bullet during crime		X
941.30 – Recklessly endangering safety		*
941.31 – Possession of explosives		X
941.32 – Administering dangerous or stupefying drug		*
941.325 – Placing foreign objects in edibles		*
941.327 – Tampering with household products		X
941.37(4) – Obstructing emergency or rescue personnel (contributes to the death of another)		X
941.375 – Throwing or discharging bodily fluids at public safety workers		*
943.10(2) – Burglary (while armed, using explosives, etc.)		*
943.32(1)(a) – Robbery (use of force)	*	X
943.32(1)(b) – Robbery (threat of force)	*	*
943.32(2) – Robbery (use or threat of use of dangerous weapon)	*	*
946.43 – Assaults by prisoners		X
948.02 – Sexual assault of a child Except (1)(c) and (1)(d)	*	
948.02(1)(am) – First-degree sexual assault of a child (great bodily harm caused to a person under the age of 13)	X	X
948.02(1)(b) – First-degree sexual assault of a child (sexual intercourse with a person is under the age of 12)	*	X
948.02(1)(c) – First-degree sexual assault of a child (sexual intercourse with a person under 16 by use or threat of force or violence)	X	X
948.02(1)(d) – First-degree sexual assault of a child (sexual contact with a person under 16 by use or threat of force or violence when the actor is at least 18)	X	X
948.02(1)(e) – First-degree sexual assault of a child (sexual contact with a person under the age of 13)	*	*
948.02(2) – Second-degree sexual assault of a child	*	*
948.025 – Engaging in repeated acts of sexual assault of the same child	*	X If 948.02(1)(c) or 948.02(1)(d)

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Crime	Past Conviction	Pending Charge/ Current Conviction
948.03 – Physical abuse of a child Except (2)(a) and (2)(c)	*	X
948.03(2)(a) – Physical abuse of a child (intentionally causing great bodily harm to a child)	*	X
948.03(2)(c) – Physical abuse of a child (Intentionally causing bodily harm to a child by conduct which creates high probability of great bodily harm)	*	X
948.05 – Sexual exploitation of a child	*	*
948.051 – Trafficking of a child	*	X
948.055 – Causing a child to view or listen to sexual activity	*	*
948.06 – Incest with a child	*	*
948.07 – Child enticement	*	*
948.075 – Use of a computer to facilitate a child sex crime	*	*
948.08 – Soliciting a child for prostitution	*	*
948.085 – Sexual assault of a child placed in substitute care	*	*
948.095 – Sexual assault of a child by a school staff person or a person who works or volunteers with children	*	*
948.21(1)(b) – Neglecting a child (if bodily harm is a consequence)	*	*
948.21(1)(c) – Neglecting a child (if great bodily harm is a consequence)	*	X
948.21(1)(d) – Neglecting a child (if death is a consequence)	*	X
948.30 – Abduction of another’s child		X
948.40(4)(a) – Contributing to the delinquency of a child (if death is a consequence)	*	X
948.40(4)(b) – Contributing to the delinquency of a child (if the child’s act is a violation of state or federal criminal law which is punishable as a felony)	*	*
948.605 – Gun-free school zones		X
948.61 – Dangerous weapons other than firearms on school premises		X