

Civil Consequences of Conviction

The Impact of Criminal Records under Wisconsin Law



Wisconsin State Public Defender

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An error, inaccuracy, or omission in this publication does not give rise to a claim of ineffective assistance of counsel, or to a claim for a disciplinary proceeding against either the Wisconsin State Public Defender or any employee of the Wisconsin State Public Defender.

This publication provides an overview of civil consequences of criminal convictions, but does not attempt to provide comprehensive legal analysis or information. For example, the summaries in this publication do not generally include all conditions or exceptions that could apply in a given situation. Also, laws of the federal government, other jurisdictions, and other political subdivisions of this state may impose additional sanctions and disqualifications that are not listed in this publication.

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1. Introduction

The True Consequences of a Criminal Conviction

The impact of a criminal conviction is greater than a number of days in prison or a number of dollars fined. Thousands of federal, state, and local laws impose additional consequences on people convicted of crimes, many of which remain in effect far beyond any judicially-imposed sentence. Unlike incarceration and fines, however, these additional consequences are frequently unknown (at the time of the criminal prosecution) to attorneys, judges, and the individuals whose lives they profoundly affect.

The goal of this publication is to provide additional information about how a criminal conviction may affect the lives of an individual. The publication summarizes consequences that arise under Wisconsin law and federal law, yet are not included in the sentence imposed by a judge in a criminal case. The scope of these consequences demonstrates the major impacts on the affected individuals, and indirectly, upon their communities.

Five Critical Questions for Assessing Consequences

Some of the consequences mentioned in this publication—such as the loss of a public benefit—can have an immediate impact on accused persons and their families. Other consequences, however, may be impossible to identify as issues before a criminal case reaches disposition. For instance, a person charged with a crime may not be aware that he or she will one day aspire to enter a profession for which a conviction of that crime is a barrier.

Five questions can help individuals and their attorneys identify the consequences most likely to impact their decision-making process as a case moves toward disposition.¹ This publication is loosely organized around these questions, which are designed to be asked of people accused of criminal offenses:

A. How are you employed?

In many professions, certain charges or convictions can result in losing a license or certificate necessary to work. Asking this question can help identify whether an individual works in a field likely to track and care about criminal activity. Students can be asked about their fields of study and their plans after finishing school.

¹ These five questions are modified versions of those suggested by Gabriel J. Chin in *Making Padilla Practical: Defense Counsel and Collateral Consequences at Guilty Plea*, 54 How. L. J. 675, 690 (2011).

B. Do you receive any public benefits?

Eligibility for many public benefits can be lost upon conviction for certain crimes. Asking this question can identify whether individuals are at risk of losing critical support, either for themselves or for their families.

C. What is your family situation?

Some types of convictions can impair an individual's ability to be a part of his or her family, especially when children are involved. Asking about family can identify whether family relationships are a concern.

D. Do you own, or will you want to own, any firearms?

Any felony conviction or a misdemeanor conviction involving domestic violence can leave an individual permanently unable to possess a firearm. Asking this question can both determine whether firearm ownership is a concern and warn the client of possible future charges for unlawful possession of a weapon.

E. Where were you born?

Non-citizens charged with crimes are often at risk of either being deported or being deemed inadmissible (thus prohibiting future entry into the United States). Asking this question can determine whether immigration status is a necessary concern. Asking about place of birth is a good starting point to determine citizenship because some clients may not be sure of citizenship or immigration status.

The Impact of Federal Law

Federal law imposes numerous consequences of conviction beyond those created by Wisconsin statutes and regulations, but is generally beyond the scope of this publication. A few broadly applicable federal statutes and regulations have been included for purposes of making this publication more useful to the general public and legal community.

Additional information about federal consequences may be obtained by consulting the on-line database of Wisconsin collateral consequences, which includes federal as well as state consequences.²

² See wisconsin.ccreourcecenter.org/. In addition, the American Bar Association and the District of Columbia Public Defender Service have prepared an excellent (if somewhat dated) narrative summary of federal consequences. *Internal Exile: Collateral Consequences of Conviction in Federal Laws and Regulations* (co-produced by the ABA and the Public Defender Service of the District of Columbia 2009), available at americanbar.org/content/dam/aba/migrated/cecs/internalexile.authcheckdam.pdf.

Limitations of this Publication

This publication describes consequences arising under Wisconsin statutes and administrative regulations, with some additional references to federal consequences. Due to the volume of material covered, it is necessarily incomplete, and it does not address all the statutes and regulations that impose civil consequences.³

The internal policies established by individual state and local agencies are also beyond the scope of this publication. Those policies can, however, have a profound impact on the consequences of a conviction. Local public housing authorities, for example, may have widely different positions on how a conviction impacts eligibility.

Sparse information regarding enforcement is another major limitation. Every effort has been made to note instances in which statutory language indicates that a particular penalty or sanction is required. In many cases, however, a criminal conviction “may” prevent someone from obtaining a particular license, certification, or benefit (for example, the licensing authority may need to determine if the circumstances of the conviction are closely related to the occupation in question). How individual agencies exercise that discretion is difficult to ascertain. In some cases, what appears to be discretionary language could be enforced in a way that effectively renders a consequence mandatory (and enforcement practices may change, even without a change in the applicable statutory language).

In sum, this publication is intended only as a guide to be used in identifying issues. It is not a substitute for legal advice, and people with specific issues related to their own cases or circumstances should talk to an attorney.

³ A comprehensive and searchable database prepared by the Collateral Consequences Resource Council, accessible at wisconsin.ccresourcecenter.org/, provides the ability to search by the type of consequence (for example, business licenses, immigration, child care, etc.) to identify applicable state and federal statutes and administrative rules.

2. Why Criminal Records Matter

Widespread Availability of Criminal History

Criminal history records are more widely available now than ever before. Wisconsin is an open records state, meaning that the custodians of criminal justice records may allow any person to inspect those records except under limited circumstances. Wis. Stat. § 19.35(1). The general public can search Wisconsin criminal court records instantaneously through the Wisconsin Access to the Public Records of the Consolidated Court Automation Program (CCAP) website, without having to provide a verifiable reason for the search. CCAP provides a searchable database for adult court records. The general public can access law enforcement reports by phone, mail, by fax, or in-person through requests to the police department.

Juvenile records are confidential under Wis. Stat. § 938.396 and will not be disclosed to the general public. If a juvenile record request is submitted, the Crime Investigation Bureau may process the request to ensure that there was no waiver of the juvenile into adult court, thereby creating an adult record. Unless allowed by statute, no juvenile information will be returned. In Wisconsin, persons 17 years of age are treated as adults for the purposes of investigating or prosecuting any violations of state or federal criminal law, any civil law, or municipal ordinance.

Widespread record availability has profoundly impacted individuals' ability to move beyond an arrest or criminal conviction. Any potential employer, landlord, creditor, or government program administrator can check criminal court records at any time; therefore any prior conviction (or criminal charge, even if ultimately dismissed) becomes an easily detectable and a frequently permanent blemish upon an individual. Therefore, many individuals may seek to have their records expunged. Adult and juvenile records may be expunged under certain circumstances as explained below.

Limited Sealing of Criminal Records

Criminal records can only be sealed under limited circumstances. Under Wis. Stat. §§ 19.36 and 165.84, arrest and criminal records *other than those of convictions* can typically be sealed if they are one of the following:

- Records pertaining to official actions involving a criminal offense that was not charged, was completely dismissed, or of which the person was acquitted; or
- Employee personnel records; or
- Records of an individual serving as an informant for law enforcement.

Furthermore, for special dispositions under Wis. Stat. § 973.015 (expungement), convictions records may be sealed if all of the following apply:

- The person is under the age of 25 at the time of the commission of an offense for which the maximum period of imprisonment is 6 years or less;
- The court orders that the conviction record is eligible for expungement at the time of sentencing;
- The court determines the person will benefit and society will not be harmed by this disposition; and
- The person has successfully completed the sentence (or term of probation) and has not been convicted of a subsequent offense and, if on probation, the probation has not been revoked.

This expungement provision does not apply to information maintained by the Department of Transportation regarding a conviction required to be included in a record kept under Wis. Stat. § 343.23(2)(a). Wis. Stat. § 973.015(1m)(a).

A person whose biological sample has been collected following a felony arrest and has been included in the data bank may request removal of his or her biological samples from the database on the grounds that his or her conviction or adjudication has been reversed, set aside, or vacated. Wis. Stat. § 165.77(4).

Instructions for sealing criminal records, as well as the documents necessary for doing so can be found on the Wisconsin Department of Justice website.⁴

Juvenile Criminal Records

The Department of Corrections shall keep a complete record on each juvenile under its supervision. Wis. Stat. § 938.54. Law enforcement agency records of juveniles may not be open to inspection or their contents disclosed except under certain circumstances.⁵

Most juvenile court records can be expunged if statutory eligibility criteria are satisfied. Wis. Stat. § 938.355(4m):

- A juvenile who has been adjudged delinquent may, on attaining 17 years of age, petition the court to expunge the court's record of the juvenile's adjudication.
- The court may expunge the record if the court determines that the juvenile has satisfactorily complied with the conditions of his or her dispositional order and that

⁴ doj.state.wi.us/dles/cib/background-check-criminal-history-information

⁵ See Wis. Stat. §§ 938.293, 938.396 for exceptions to confidentiality of these records.

the juvenile will benefit from, and society will not be harmed by, the expungement.

Juvenile records cannot be expunged for the following:

- A person who is currently under Juvenile Court jurisdiction/supervision, even though he/she has reached age 17.
- A person who has been adjudicated as an aggravated juvenile offender or a violent juvenile offender.
- A person who has been adjudicated for an offense that would constitute a crime of violence under Wis. Stat. Chapter 940.

A form for applying to the court to expunge a juvenile adjudication can be found on the Wisconsin State Courts website, wicourts.gov/formdisplay/JD-1780.pdf?formNumber=JD-1780&formType=Form&formatId=2&language=en.⁶

⁶ An explanation of the form and the expungement process is also available at wicourts.gov/formdisplay/JD-1780_summary.pdf?formNumber=JD-1780&formType=Summary&formatId=2&language=en

3. Employment

The Appendix contains a list of individual professions for which a criminal conviction (or in some cases a criminal charge), can be either disqualifying or potentially disqualifying under Wisconsin statutes and regulations. The information in this chapter is broadly applicable to Wisconsin employers and employees.

Critical Employment Areas

- A. Government Licenses, Certificates, Registrations, and Contracts: As a general rule, if a job requires any type of government-issued license, certificate, registration, or contract, a criminal conviction could have adverse employment consequences.
- B. Vulnerable People and Positions of Trust: As a general rule, if a job involves working closely with vulnerable populations (i.e. students, the mentally ill, prisoners, etc.), the potential is greater that a criminal conviction may curtail employment possibilities.

Also as a general rule, if a job involves a position of trust or responsibility (i.e. financial responsibility, responsibility for the wellbeing of another, etc.), the potential is that a criminal conviction may curtail employment possibilities.

Guilty and No Contest Pleas

When evaluating a criminal offense, the entities that regulate most of the professions listed in the Appendix treat a guilty plea or a plea of no contest the same way that they treat a conviction following trial. Often the regulatory body is authorized to consider the circumstances of the underlying incident, as well as the ultimate disposition in criminal court.

The Effect of Out-of-State and Federal Convictions

Many of the statutes regulating professions listed in the Appendix specify that out-of-state or federal convictions count against an applicant or licensee in the same way as a Wisconsin conviction; however, many others do not specifically include these convictions.

States differ in their classifications of crimes and disqualifying convictions. Some Wisconsin penalty statutes apply only to persons convicted of a felony in this state. However, some also specify that the penalty applies to persons convicted of a crime elsewhere that would be a felony if committed in this state. See Wis. Stat. § 941.29 (felon in possession of firearm).

To determine whether a person has been "convicted of a crime elsewhere that would be a felony if committed in this state," the courts must consider the underlying conduct of the out-of-state conviction, not merely the statute that was violated.⁷

The Effect of Internal Regulations and Policies

This publication does not include all of the internal regulations and policies followed by individual governmental authorities or agencies. Therefore, despite the absence of a mandatory disqualification listed in the Appendix, the possibility remains that an individual employed in a regulated profession may be subject to an adverse employment action if convicted of a crime.

The Effect of Federal Law

The full impact of federal law is beyond the scope of this publication. Nevertheless, federal restrictions on some broadly applicable professions, such as military service, have been included in the list of occupations in the Appendix.

Nearly all jobs working for the federal government are subject to criminal history checks.⁸ The extent to which a criminal record will prevent employment varies from job to job. Most jobs requiring federal licensure also have restrictions on persons with various types of criminal history. Federally regulated occupations with such restrictions include but are not limited to the following:

- Federal law enforcement.
- Child care.
- Transportation industries (air, road, rail, or sea).
- Commodity dealers.
- Broadcast licensing.
- Firearms-related professions (employment that involves use of a firearms, sale or transportation of firearms, etc.).
- Farm labor contractors.
- Financial institutions (banks, brokers, dealers, investment advisers, etc.).

⁷ State v. Campbell, 2002 WI App 20, 250 Wis. 2d 238, 642 N.W.2d 230 (Ct. App. 2002).

⁸ For more information *see* Federal Executive Order 10450 – Security Requirements for Government Employment, available: archives.gov/federal-register/codification/executive-order/10450.html.

The degree to which a person's criminal history will preclude employment frequently depends on the nature of the individual job and applicant.⁹

Discrimination Based on Criminal Record

Under many circumstances, a criminal offense cannot serve as the sole basis for denying an employment opportunity. According to Wisconsin's Fair Employment law, Wis. Stat. § 111.321, the general rule is that no employer, labor organization, employment agency, licensing agency, or other person may engage in any act of employment discrimination as specified against any individual on the basis of arrest record or conviction record. However, an important limitation of this rule is that an employer or licensing board may take into account a criminal record the circumstances of which are substantially related "to the particular job or licensed activity" in question.¹⁰

Provisions Affecting both Employers and Employees

Some consequences address the ability of an organization to provide a government service: for example, the organization may lose a license or a government contract because of the conviction record of an employee. See Wis. Stat. § 48.685(4m)(b) (entity providing child care services may not employ or contract with a caregiver convicted of specified crimes). This type of consequence indirectly affects individual job applicants and employees, because they will not be hired (or they will be terminated from employment) to protect the organization's status.

⁹ See wisconsin.ccresourcecenter.org/. In addition, the American Bar Association and the District of Columbia Public Defender Service have prepared an excellent (if somewhat dated) narrative summary of federal consequences. *Internal Exile: Collateral Consequences of Conviction in Federal Laws and Regulations* (co-produced by the ABA and the Public Defender Service of the District of Columbia 2009), available at americanbar.org/content/dam/aba/migrated/cecs/internalexile.authcheckdam.pdf.

¹⁰ See Wis. Stat. §§ 111.335(1)(b) (arrest record, if a criminal charge related to the arrest is pending), (c) (conviction record).

4. Public Benefits and Contracts

Public Housing

The federal government has established several subsidized-housing programs that are administered by local Public Housing Authorities (PHAs). Individual PHAs have great discretion regarding what types of criminal records they will accept in the personal histories of their tenants. Federal law, however, imposes several broadly applicable restrictions on whom PHAs can admit or retain as residents.¹¹

Many of the restrictions below apply to “any household member,” thus creating a situation in which the conduct of one person can result in a loss of housing for an entire family. Additionally, many restrictions are based on the PHA’s evaluation of conduct alone and do not require a conviction in order to prohibit or terminate housing.

- PHAs must prohibit admission if any of the following circumstances apply:
 - The PHA determines that any household member is currently engaged in illegal use of a drug.
 - The PHA determines that a household member’s illegal drug use or pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
 - Any household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally-assisted housing.
 - Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

- PHAs may prohibit admission if any household member is currently engaged in or has engaged in any of the following activities, during a reasonable time before the admission:
 - Drug-related criminal activity.
 - Violent criminal activity.
 - Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.

- PHAs must terminate assistance if they determine that any member of the household has ever been convicted of producing methamphetamine on the premises of federally-assisted housing.

¹¹ 42 U.S.C. §§ 1437f, 13661-13663; 24 C.F.R. § 982.553.

- PHAs may terminate assistance if they make any of the following determinations:
 - Any household member is currently engaged in any illegal use of a drug.
 - A pattern of illegal use of a drug by any household member interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
 - Any household member has engaged in violent criminal activity.

Food Stamps

- A person shall be *temporarily* disqualified from receiving food stamps for the first offense of the following:
 - Obtaining, or aiding another in obtaining, food stamp benefits to which the person is not entitled.
 - Trading a controlled substance for food stamps.
- A person shall be *permanently* disqualified from receiving food stamps for the following:
 - A second offense of obtaining, or aiding another in obtaining, food stamp benefits to which the person is not entitled.
 - A second offense of trading controlled substances for food stamps.
 - An offense of trading firearms, ammunition, or explosives for food stamps.
- A person who fraudulently misstates or misrepresents his or her identity or place of residence for the purpose of receiving benefits illegally under the food stamp program shall be suspended for a period of 10 years.
- A food stamp applicant previously convicted of a felony that had as an element possession, use, or distribution of a controlled substance in any state or federal court is required to submit to a test for use of a controlled substance as a condition of eligibility.
 - If the test results are positive, the department may not consider the needs of the individual in determining the household's eligibility for the food stamp program.
- A fugitive felon or person who is violating a condition of probation, extended supervision, or parole imposed by a state or federal court is not eligible for the food stamp program during the month of the violation.

This list of food stamp eligibility provisions is not comprehensive: for complete information, see Wis. Stat. § 49.79.

Federal Student Loan Eligibility

- A student convicted under any federal or state law of any offense involving the possession or sale of a controlled substance, for conduct that occurred during a period of enrollment for which the student was receiving federal student assistance, shall not be eligible to receive any grant, loan, or work assistance under either subchapter IV of chapter 28 of title 20, or part C of subchapter I of chapter 34 of title 42, from the date of that conviction for the period of time specified below. 20 U.S.C. § 1091(r).
 - Possession of a Controlled Substance
 - First Offense: One Year.
 - Second Offense: Two Years.
 - Third Offense: Indefinite.
 - Sale of a Controlled Substance
 - First Offense: Two Years.
 - Second Offense: Indefinite.

- A student whose eligibility has been suspended may resume eligibility before the end of the ineligibility period if certain statutorily specified conditions are met. 20 U.S.C. § 1091(r)(2).

- Pell Grants shall not be awarded to individuals who are in prison for a sex offense or who are subject to involuntary civil commitment as sex offenders. 20 U.S.C. § 1070a(b)(6).

Worker's Compensation Benefits

- An employee is ineligible for worker's compensation benefits if his or her employment has been suspended or terminated due to the employee's alleged commission of a crime, if the circumstances are substantially related to that employment and the employee has been convicted of that crime. Wis. Stat. § 102.43(9)(b).

Wisconsin Works Program – §§ 49.148(4), 49.141(7)(c)

- A person shall be suspended from participating in Wisconsin Works for a period of 10 years beginning on the date of conviction if the person is convicted in a federal or state court for the following conduct:
 - Knowingly and willfully making or causing to be made any false statement or representation of a material fact in any application for purposes of simultaneously receiving assistance from this state and at least one other state.

For additional information, see Wis. Stat. § 49.141(7)(c).

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- A person convicted in any state or federal court of a felony that had as an element possession, use, or distribution of a controlled substance shall be required to submit to a test for use of a controlled substance as a condition of eligibility for the Wisconsin works program.
 - If the test results are positive, the Wisconsin works agency shall decrease the pre-sanction benefit amount for that participant pursuant to Wis. Stat. § 49.148(4).

Veterans Benefits

Veterans are eligible for a variety of benefits under both state and federal law. As illustrated by the examples below, both state and federal benefits can be jeopardized by a criminal conviction.

- If a veteran has been convicted of delinquency of child support or maintenance payments or owes past support, medical expenses, or birth expenses, the veteran is ineligible for the Wisconsin Veteran housing loan program. Wis. Stat. § 45.33(2).
- A person is ineligible for admission to a state-operated veteran's home if the person has been convicted of any felony or of a crime involving moral turpitude. Wis. Stat. § 45.41(2)(b).
 - If a person falling under this section has produced satisfactory evidence of subsequent good conduct and reformation of character, the person may be admitted to a veteran's home.
- No person shall be eligible for residence in an armed forces retirement home if he or she has been convicted of a felony or is not free of drug, alcohol, or psychiatric problems. 24 U.S.C. § 412(b).
- All veteran's benefits are forfeited if the Secretary of the Department of Veterans Affairs determines that a veteran is guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or if the veteran has been convicted of a specified offense under federal or military law. 38 U.S.C. §§ 6104, 6105.
- Similar offenses, including spying, result in forfeiture of National Service Life Insurance, Service-members' Group Life Insurance, and Veterans' Group Life Insurance. 38 U.S.C. §§ 1911, 1973.

Social Security

- Old-age and survivors insurance benefit payments will not, subject to various exceptions, be paid for any month in which a person is subject to any legal status listed below:¹²
 - Confined in a jail, prison, or other penal institution for conviction of a criminal offense.
 - Confined by court order in an institution at public expense in connection with a verdict of guilty by reason of insanity, a finding of incompetence to stand trial, or a similar verdict or finding.
 - Confined by court order in an institution immediately following completion of confinement for a criminal offense, an element of which is sexual activity, and pursuant to a finding that the individual is a sexually dangerous person (sexual predator) or a similar finding.
 - Fugitive status to avoid prosecution or custody for a felony.
 - Violating a condition of probation or parole imposed under federal or state law.

- No person shall be eligible for Supplemental Security Income for the Aged, Blind, and Disabled, subject to certain exceptions, if the person is subject to any legal status listed below:
 - An inmate at a public institution. 42 U.S.C. § 1382(e)(1).
 - Fleeing to avoid prosecution or custody for a felony. 42 U.S.C. § 1382(e)(4)(A)(i).
 - Violating a condition of probation or parole imposed under federal or state law. 42 U.S.C. § 1382(e)(4)(A)(ii).

- A person who has been convicted of any offense under federal or state law resulting in imprisonment for more than one year cannot serve as a representative payee for a beneficiary entitled to certain benefits under the Social Security Act. 42 U.S.C. § 1383(a)(2)(B)(ii)(IV).

Government Contracts and Loans

A number of federal and state laws restrict eligibility for participation as contractors with the government, which may prevent an individual or a business from providing services or serving as a vendor. Examples include the following:

- A person convicted of fraud, theft, embezzlement, forgery, bribery, or any offense reflecting a lack of business honesty may be excluded from contracting with the Wisconsin Department of Administration. Wis. Admin. Code Adm. § 24.03.

¹² 42 U.S.C. § 402(x).

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- A person convicted of a felony (or of certain other specified offenses) during the previous 10 years is not eligible for a contract to be a retailer for the lottery program administered by the State Department of Revenue. Wis. Stat. § 565.10(3)(a).
- A person convicted of a felony, a misdemeanor with an element of dishonesty, or misdemeanor related to debt collection may be terminated as a contractor administering a deferred prosecution program created by a District Attorney. Wis. Stat. § 971.41(5).
- A person convicted of fraud, theft, embezzlement of other crimes involving dishonesty may be ineligible for federal loans through the Small Business Administration. 15 U.S.C. § 636(1)(F)(vi).
- A person participating in the Small Business Administration's loan program for minority businesses may have his or her loan terminated if convicted of a crime involving dishonesty (lack of business integrity). 13 C.F.R. § 124.303(17).
- A person incarcerated, on supervision, facing felony charges, or facing misdemeanor charges involving moral turpitude is ineligible for a federal small-business loan. 13 C.F.R. § 120.110(n).

5. Family Concerns

Involuntary Termination of Parental Rights

- Pursuant to Wis. Stat. § 48.415, in determining whether grounds exist for termination of parental rights, courts may consider a variety of factors, including but not limited to convictions for the following crimes:
 - Neglect of a child. Wis. Stat. § 948.21.
 - Child abuse. Wis. Stat. § 948.03.
 - Incestuous parenthood. Wis. Stat. § 948.06.
 - Homicide or solicitation to commit homicide of parent. Wis. Stat. §§ 940.01, 940.02, or 940.05.
 - Sexual assault. Wis. Stat. § 940.225.

- Convictions for specified offenses are also considered in other child custody and physical placement determinations. For example, see Wis. Stat. § 48.355(2d)(b) (certain convictions of parent relieve the court determining whether the county social service agency made reasonable efforts to have the child remain in or return to parent's home).

Visitation Rights

- Visitation rights may not be granted to a person who has been convicted of Wis. Stat. §§ 940.01 (first-degree intentional homicide) or 940.05 (2nd-degree intentional homicide) of a parent of the child, if the conviction has not been reversed, set aside, or vacated. See Wis. Stat. § 767.43(1m).
 - This prohibition does not apply if the court determines by clear and convincing evidence that the visitation would be in the best interests of the child.

Name Changes

- Under Wis. Stat. § 301.47(2), a sex offender may not change his or her name before he or she is released from the sex offender reporting requirements in Wis. Stat. § 301.45.

Foster Care

- A foster care license shall not be granted to an individual who has been convicted of a serious crime, including the following:
 - Homicide;
 - Felony murder;
 - Battery;
 - Sexual assault;

Civil Consequences of Conviction: The Impact of Criminal Records under Wisconsin Law

- Abuse of individuals at risk;
- Offense involving fraudulent activity as a participant under the Wisconsin Works program; and
- Any felony offense under Chapter 48 – crimes against children.

For a more comprehensive list of criminal convictions disqualifying an individual from a foster care license, see Wis. Stat. § 48.685(1)(c).

For information regarding foster care, see the *Child Care* section of the Appendix.

Guardian or Conservator Appointment

- A court may require a criminal background check to determine the fitness of a nominee for appointment as a guardian, emergency guardian, conservator, or special conservator. Wis. Stat. § 54.76; see also Wis. Stat. § 54.10.

Inheritance

- An individual found to have unlawfully killed another person is subject under Wis. Stat. § 854.14(2) to revocation of provisions in a will or other document that, by reason of the decedent's death, do any of the following:
 - Transfer or appoint property to the killer;
 - Confer a power of appointment on the killer;
 - Nominate or appoint the killer to serve in any fiduciary or representative capacity, including personal representative, trustee or agent.
- Every statutory right or benefit to which the killer may have been entitled by reason of the decedent's death shall also be revoked. Wis. Stat. § 854.14(2).
- Additional consequences apply if decedent's death is caused by decedent's spouse. See Wis. Stat. § 854.14(3m).

6. Firearms

Under both state and federal law, a person convicted of a felony is prohibited from possessing a firearm.

Restrictions under Wisconsin Law

- It is a felony offense to knowingly possess a firearm if previously convicted of a felony, convicted of a crime elsewhere that would be a felony if committed in this state, or found not guilty of a felony by reason of mental disease or defect. See Wis. Stat. § 941.29.

Restrictions under Federal Law

- It is unlawful for any person to possess a firearm or ammunition any of the following apply to the person:
 - Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year (conviction of a felony).
 - Is a fugitive from justice.
 - Is an unlawful user of, or addicted to, any controlled substance.
 - Is under a court order that restrains the person from harassing, stalking, or threatening an intimate partner.
 - Has been convicted in any court of a misdemeanor crime of domestic violence.

For more information, see 18 U.S.C. § 922(g).

7. Body Armor

Restrictions under Wisconsin Law

- It is a felony offense to knowingly possess body armor if previously convicted of a violent felony in this state, convicted of a crime elsewhere that would be a violent felony if committed in this state, or found not guilty of a violent felony by reason of mental disease or defect. See Wis. Stat. § 941.291(2).

Restrictions under Federal Law

- Same restrictions as under Wisconsin law.
 - It is unlawful for a person to purchase, own, or possess body armor, if previously convicted of a felony that is a crime of violence.

For more information, see 18 U.S.C. § 931.

8. Citizenship and Immigration

Any non-citizen convicted of a crime may face either removal from the United States or classification as “inadmissible.” Consequences related to immigration and citizenship are set forth in federal law, and the details of this complex body of law are beyond the scope of this publication. Also, enforcement priorities and practices may change over time, even without changes in the applicable statutes.

The information below is provided to highlight general concerns and risks.

Consequences of Conviction for Non-Citizens

- Inadmissibility: Certain crimes can render a person inadmissible. “Inadmissible” means that if the person leaves the United States, he or she is unable to return.
- Deportation: Certain crimes can render a person deportable. “Deportation” means that the person can be removed from the country.
- Other possible consequences include, but are not limited to, the following:
 - Inability to obtain asylum or protected status.
 - Inability to become a citizen.
 - Inability to become a legal permanent resident.

Inadmissibility

- Most non-citizens deemed inadmissible will not be able to reenter if they leave the U.S. If an undocumented immigrant is determined inadmissible, he or she will be removed from the country and then barred from seeking readmission for a period of time.
- Subject to limited exceptions and waivers, grounds for inadmissibility include the following:
 - Conviction of, or admission to having committed, any crime involving moral turpitude. Note that the definition of “moral turpitude” in this context is governed by federal decisions applied to a variety of state and federal crimes.
 - Conviction of, or admission to having committed, any crime relating to a controlled substance. A limited exception applies for marijuana possession.
 - Conviction of two or more criminal offenses, the resulting aggregate sentences for which were five years or more.
 - Commission of prostitution or commercialized vice.
 - Illegal presence in the United States.

This list is not complete. For additional information, see 8 U.S.C. § 1182.

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Deportability

- Subject to limited exceptions and waivers, grounds for deportation include the following:
 - Presence in the United States as an inadmissible person or in violation of law.
 - Conviction of a single crime involving moral turpitude within five years of admission for which a sentence of one year or longer may be imposed.
 - Conviction of multiple crimes involving moral turpitude, regardless of the time after admission or the sentence imposed.
 - Conviction of any aggravated felony.
 - Conviction of a violation of any controlled substance law, other than a single offense involving possession for one's own use of thirty grams or less of marijuana.
 - Conviction of a firearms offense.
 - Conviction of a crime of domestic violence, stalking, child abuse, child neglect, or child abandonment.
 - Violation of a protective order.

For additional information, see 8 U.S.C. § 1227.

Inability to Obtain Citizenship

- To become a naturalized citizen, a person must be of good moral character while in the United States for a minimum of five years. See 8 U.S.C. § 1427(a).
- No person shall be regarded as one of good moral character if during the period for which good moral character is required, any of the following criteria applied to the person:
 - Confined in a jail or prison for an aggregate of 180 days.
 - Convicted of an aggravated felony at any time.
 - Convicted of or found to have committed any of the same offenses or actions listed as being grounds for inadmissibility in 8 U.S.C. § 1182(a).

For additional information, see 8 U.S.C. § 1101(f).

9. Other Civil Rights and Privileges

Driving

- Wis. Stat. § 343.06(1)(i) lists offenses for which a conviction may, in the court's discretion, prevent the person from having an operator's license issued for a period of one year, until discharge from any jail or prison sentence, or until completion of any related period of probation, extended supervision, or parole. These offenses include the following:
 - Sexual assault. Wis. Stat. § 940.225.
 - Sexual assault of a child. Wis. Stat. § 948.02.
 - Repeated acts of sexual assault of the same child. Wis. Stat. § 948.025.
 - Child enticement. Wis. Stat. § 948.07.
 - Sexual assault of a child placed in substitute care. Wis. Stat. § 948.085.

- Under Wis. Stat. § 343.12(7), an applicant may be denied a school-bus endorsement if the applicant has been convicted of any of the following in this state (or similar law of another jurisdiction):
 - Reckless driving. Wis. Stat. § 346.62.
 - Operating a motor vehicle while operating privileges are suspended or revoked or while the operator is disqualified. Wis. Stat. § 343.44(1)(a), (b), or (d).
 - Second-degree reckless homicide under Wis. Stat. § 940.06 if the offense results from the operation of a motor vehicle.
 - Homicide by intoxicated use of a vehicle. Wis. Stat. § 940.09(1).
 - Homicide by negligent operation of a vehicle. Wis. Stat. § 940.10.
 - Injury by intoxicated use of a vehicle. Wis. Stat. § 940.25(1).
 - Causing injury by operating a motor vehicle under the influence of an intoxicant or other drug. Wis. Stat. § 346.63(2).
 - Causing injury by operating a commercial motor vehicle with a prohibited alcohol concentration. Wis. Stat. § 346.63(6).
 - Operating a motor vehicle under the influence of an intoxicant or other drug or with a prohibited alcohol concentration. Wis. Stat. § 346.63(1).
 - Operating a commercial motor vehicle with a prohibited alcohol concentration. Wis. Stat. § 346.63(5).
 - Operating a motor vehicle while under the legal drinking age with a prohibited alcohol concentration. Wis. Stat. § 346.63(2m).
 - Failure to stop and render assistance at the scene of a motor vehicle accident. Wis. Stat. § 346.67(1)(c).
 - Fleeing from or attempting to elude a traffic officer. Wis. Stat. § 346.04(3).
 - First-degree intentional homicide. Wis. Stat. § 940.01.
 - First-degree reckless homicide. Wis. Stat. § 940.02.
 - Felony murder. Wis. Stat. § 940.03.
 - Second-degree intentional homicide. Wis. Stat. § 940.05.

- Assisting suicide. Wis. Stat. § 940.12.
- Felony battery. Wis. Stat. § 940.19(2), (4), (5), or (6).
- Sexual exploitation by a therapist. Wis. Stat. § 940.22(2).
- Felony sexual assault. Wis. Stat. § 940.225(1), (2), or (3).
- Abuse of a vulnerable adult under circumstances constituting a felony. Wis. Stat. § 940.285(2).
- Abuse of a resident of a penal facility. Wis. Stat. § 940.29.
- Abuse or neglect of a patient or resident under circumstances constituting a felony. Wis. Stat. § 940.295.
- Human trafficking. Wis. Stat. § 940.302(2), if § 940.302(2)(a)1.b. applies.
- Sexual assault of a child. Wis. Stat. § 948.02(1) or (2).
- Repeated acts of sexual assault of the same child. Wis. Stat. § 948.025.
- Physical abuse of a child. Wis. Stat. § 948.03(2).
- Sexual exploitation of a child. Wis. Stat. § 948.05.
- Trafficking of a child. Wis. Stat. § 948.051.
- Causing a child to view or listen to sexual activity. Wis. Stat. § 948.055.
- Incest with a child. Wis. Stat. § 948.06.
- Child enticement. Wis. Stat. § 948.07.
- Use of a computer to facilitate a child sex crime. Wis. Stat. § 948.075.
- Soliciting a child for prostitution. Wis. Stat. § 948.08.
- Sexual assault of a child placed in substitute care. Wis. Stat. § 948.085.
- Sexual assault of a student by a school instructional staff person. Wis. Stat. § 948.095.
- Felony exposing a child to harmful material or harmful descriptions or narrations. Wis. Stat. § 948.11 (2) (a) or (am).
- Possession of child pornography. Wis. Stat. § 948.12.
- Child sex offender working with children. Wis. Stat. § 948.13 (2).
- Neglecting a child under circumstances constituting a felony. Wis. Stat. § 948.21.
- Abduction of a child. Wis. Stat. § 948.30.
- Any felony crime in the commission of which a motor vehicle is used other than those crimes specified above.

For additional information and a comprehensive list, see Wis. Stat. § 343.12(7).

- A court may suspend a person's operating privilege for any period not exceeding one year upon such person's conviction of violating any of the state traffic laws or any local ordinance enacted under chapter 349. Wis. Stat. § 343.30.
- Under Wis. Stat. § 343.31, a person's operating privilege shall be revoked upon a record of conviction showing that the person has been convicted of any of the following offenses:
 - Homicide or great bodily harm resulting from the operation of a motor vehicle under Wis. Stat. §§ 346.62 (4), 940.06, 940.09, 940.10, or 940.25.
 - Injury by the operation of a vehicle while under the influence of an intoxicant; a controlled substance or a controlled substance analog; or any combination

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- of an intoxicant, a controlled substance, and a controlled substance analog, which renders him or her incapable of safely driving or while the person has a detectable amount of a restricted controlled substance in his or her blood or has a prohibited alcohol concentration under Wis. Stat. § 346.63(2).
- Injury by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08 under Wis. Stat. § 346.63(6).
- Any felony in the commission of which a motor vehicle is used.
- Failure to stop and render aid as required after a motor vehicle accident resulting in death of or personal injury to another or in serious property damage.
- Knowingly fleeing or attempting to elude a traffic officer. Wis. Stat. § 346.04(3).

For a comprehensive list, see Wis. Stat. § 343.31.

- Under Wis. Stat. § 343.31(3)(f), any person convicted of injury by intoxicated use of a vehicle, under Wis. Stat. § 940.25, shall have his or her operating privilege revoked for 2 years.
 - If there was a minor passenger under 16 years of age or an unborn child, as defined in Wis. Stat. § 939.75(1), in the vehicle at the time of the violation that gave rise to the conviction, the revocation period is 4 years.
- According to Wis. Stat. § 343.315(2), a person shall be disqualified from operating a commercial motor vehicle for a one-year period upon a first conviction of any of the following offenses while engaged in commercial motor vehicle related activities:
 - Operating under influence of intoxicant or other drug. Wis. Stat. § 346.63.
 - Violation of any of the following “hit and run” laws:
 - Duty upon striking person or attended or occupied vehicle. Wis. Stat. § 346.67.
 - Duty upon striking unattended vehicle. Wis. Stat. § 346.68.
 - Duty upon striking property on or adjacent to highway. Wis. Stat. § 346.69.
 - Homicide by intoxicated use of vehicle or firearm. Wis. Stat. § 940.09.
 - Injury by intoxicated use of vehicle. Wis. Stat. § 940.25.
 - Operating a commercial motor vehicle when the person’s commercial driver license is revoked, suspended, or cancelled.
 - Causing a fatality through negligent or criminal operation of a motor vehicle.

For additional information, see Wis. Stat. § 343.315.

School Attendance

- A pupil in possession of a firearm while at school or while under the supervision of a school authority shall be expelled from school for not less than one year. Wis. Stat. § 120.13(1)(c)2m.

University Attendance

- A person convicted of participation in an unlawful assembly, who is employed by or enrolled as a student in a public institution of higher education, may be suspended from his or her employment or suspended from enrollment for a period not to exceed six months. Wis. Stat. § 947.06(5).

Voting

- Any person convicted of any felony shall not be allowed to vote in any election until the sentence has been completed or the person has been pardoned. Wis. Stat. § 6.03.
 - Wis. Stat. § 304.078(3) provides for restoration of the right to vote when the person has completed his or her sentence, including any period of supervision by the Department of Corrections.

Election Participation as Candidate or Official

- A person convicted of a felony in any court within the United States, convicted in federal court of a misdemeanor designated as involving a violation of public trust, or convicted in a court of any state of a misdemeanor involving a violation of public trust shall be ineligible to any office of trust, profit, or honor in this state unless pardoned. Wisconsin Constitution, Article 13, section 3.
- Any election official convicted of any violation of chapter 12 shall be disqualified for a term of five years from the time of conviction. Wis. Stat. § 12.60(3).

Property Forfeiture

- All property, real or personal, including money, directly or indirectly derived from or realized through the commission of any crime is subject to seizure and forfeiture. Wis. Stat. § 973.075.

DNA (Genetic) and HIV Testing

- A defendant may be ordered to submit to an HIV test and to a test or series of tests to detect the presence of a sexually transmitted disease, under Wis. Stat. § 968.38(2), when facing charges for the following criminal actions:
 - Sexual assault. Wis. Stat. § 940.225.
 - Sexual assault of a child. Wis. Stat. § 948.02.
 - Sexual exploitation of a child. Wis. Stat. § 948.05.
 - Incest with a child. Wis. Stat. § 948.06.
 - Sexual assault of a child placed in substitute care. Wis. Stat. § 948.085.
 - Sexual assault of a child by a school staff person or a person who works or volunteers with children. Wis. Stat. § 948.095.

- A person shall provide a biological specimen to the state crime lab for deoxyribonucleic acid analysis, under Wis. Stat. § 165.76, if he or she was convicted of any of the following:
 - A felony (finding of guilt on or after January 1, 2000).
 - A misdemeanor (finding of guilt on or after January 1, 2015).

For a comprehensive list, which also includes delinquency adjudications for any felony offense and for specified misdemeanors, see Wis. Stat. § 165.76.

Wisconsin law enforcement collects DNA following an arrest for a felony offense per Wis. Stat. § 165.84(7)(a), which took effect on April 15, 2015. If a felony defendant has not provided a DNA sample before the initial appearance, the court at that hearing orders collection of DNA. Wis. Stat. § 970.02(8). There is a process to have the DNA removed from the DNA database if the case does not result in a conviction. Wis. Stat. § 165.77(4).

Jury Service

- A person convicted of a felony who has not had his or her civil rights restored shall be disqualified from serving as a juror. Wis. Stat. § 756.02.

Witness Testimony

- A person testifying as a witness in a court proceeding may have his or her credibility called into question because of prior conviction of a crime. Wis. Stat. § 906.09.

Gambling

- A person may be excluded from a racetrack if the person has been convicted of a violation of a law of this or another state or of the United States related to racing, to other forms of gambling, or to the mistreatment of animals; the person may also be excluded if he or she has previously had a license related to racing suspended, revoked, or denied. Wis. Stat. § 562.02(2)(e).

- A person may not serve as an administrator or other employee of the division of gaming (Department of Revenue) if the person has been convicted of any of the following:
 - A felony in a state or federal court.
 - Fraud or misrepresentation in connection with racing or animal breeding.
 - A violation related to the humane treatment of animals.

For more information, see Wis. Stat. § 562.045.

Passport

- A person may have his or her passport revoked or denied if convicted of a federal or state felony drug offense or certain misdemeanor drug offenses, if the person used a passport or otherwise crossed an international border in committing the offense. 22 U.S.C. § 2714.

10. Greater Penalties for Repeat Offenses

A person is charged with a crime may be subject to additional penalties if he or she is a repeater offender or a persistent repeater. Wis. Stat. § 973.12 states the general provisions of sentencing for a repeater or a persistent repeater.

Previous convictions often make it more difficult to obtain pre-trial release for a subsequent charge. Furthermore, a subsequent conviction may carry a substantially greater penalty due to the offender's prior record.

Habitual Criminal Laws

- If an actor is a repeater with a present conviction for any crime for which imprisonment may be imposed, except for an escape or failure to report, the maximum term of imprisonment may be increased under Wis. Stat. § 939.62.
- If an actor is a persistent repeater, as defined in Wis. Stat. § 939.62(2m)(b), the term of imprisonment for a felony included in that definition is life imprisonment without the possibility of parole or extended supervision. Wis. Stat. § 939.62(2m)(c).

A person convicted of any of the following may face a greater penalty if subsequently convicted of the same crime or a similar crime. Wis. Stat. § 939.62.

- Sexual assault of a child. Wis. Stat. §§ 948.02, 948.025.
- Physical Abuse of a child. Wis. Stat. § 948.03.
- Sexual exploitation of a child. Wis. Stat. § 948.05.
- Child enticement. Wis. Stat. § 948.07.
- Sexual assault of a child placed in substitute care. Wis. Stat. § 948.085.
- Abduction of another's child. Wis. Stat. § 948.30.
- Solicitation of a child to commit a felony. Wis. Stat. § 948.35(1)(b).
- First-degree intentional homicide. Wis. Stat. § 940.01.
- First-degree reckless homicide. Wis. Stat. § 940.02.
- Felony murder. Wis. Stat. § 940.03.
- Kidnapping. Wis. Stat. § 940.31.
- Second-degree intentional homicide. Wis. Stat. § 940.05.
- Homicide by intoxicated use of vehicle or firearm. Wis. Stat. § 940.09.
- Battery. Wis. Stat. §§ 940.19, 940.195.
- Sexual assault. Wis. Stat. § 940.225.
- Arson of buildings; damage of property by explosives. Wis. Stat. § 943.02.
- Burglary. Wis. Stat. § 943.10(2).
- Robbery with use or threat of a weapon. Wis. Stat. § 943.32(2).

This list is not comprehensive; for additional information, see Wis. Stat. § 939.62.

The penalty for federal offenses committed after conviction of a state crime may also be substantially more severe. See *generally* U.S. Sentencing Guidelines Manual ch. 4 (2016).

Pretrial Release on Bail/Bond

- A person accused of committing any of the crimes listed above, or of certain additional crimes, may be denied pretrial release.

See Wis. Stat. § 969.035 for a comprehensive list of crimes that may affect an individual's pretrial release.

Some Wisconsin counties use an actuarial risk assessment to inform the court's decision regarding pretrial release. Prior convictions are a significant factor considered as part of such an assessment.

Controlled Substance Offenses

- According to Wis. Stat. § 961.48(1), if a person is convicted of a repeat felony offense under Chapter, the maximum term of imprisonment for the offense may be increased as follows:
 - By not more than 6 years, if the offense is a Class C or D felony.
 - By not more than 4 years, if the offense is a Class E, F, G, H, or I felony.

- The penalty for federal offenses committed after conviction of a state crime may also be substantially more severe. U.S. Sentencing Guidelines Manual ch. 4 (2016).

Driving, Boating, and Flying Offenses

A person's operating privilege shall be revoked for a period of 5 years upon receipt of a record of conviction that brings the person within the definition of a habitual traffic offender or repeat habitual traffic offender. Wis. Stat. § 351.025.

A "habitual traffic offender," under Wis. Stat. § 351.02(1), means the following:

- Any person who has committed four or more conviction of the following offenses within a 5-year period:
 - Homicide under Wis. Stat. §§ 940.06, 940.09, or 940.10 involving the use of a vehicle.
 - Reckless driving. Wis. Stat. § 346.62.
 - Driving or operating a motor vehicle in violation of Wis. Stat. § 346.63.
 - Making any false statement to the department. Wis. Stat. § 345.17.

- Any crime punishable as a felony under Chapters 341 to 348 or any felony in the commission of which a motor vehicle was used.
 - Failure of the operator of a motor vehicle involved in an accident to stop at or near the scene of the accident and report his or her identity under Wis. Stat. § 346.67(1).
 - Fleeing or attempting to elude an officer under Wis. Stat. § 346.04(3).
 - Refusal to submit to testing under Wis. Stat. § 343.305(9)(d).
- Any person who has committed 12 or more convictions of violations of Chapter 346 within a 5-year period.

A “repeat habitual traffic offender,” under Wis. Stat. § 351.02(1m), means any person convicted of two offenses listed above after having already been designated as a habitual traffic offender, committed within one year following issuance of an occupational license.

Under Wis. Stat. § 114.09, a person convicted of intoxicated or reckless flying may be subject to increased penalties if the person is a repeat offender.

Under Wis. Stat. § 30.80(1), a person convicted of any boating violation defined in Wis. Stat. §§ 30.50 to 30.80 may be subject to an increased penalty if previously convicted of the same offense within a year.

A repeat offender of intoxicated boating (Wis. Stat. § 30.681) shall be subject to increased penalties under Wis. Stat. § 30.80(6).

The penalty for federal offenses committed after conviction of a state crime may also be substantially more severe. U.S. Sentencing Guidelines Manual ch. 4 (2016).

Animal, Wildlife, and Livestock Related Offenses

A person convicted of any of the following may face a greater penalty if subsequently convicted of the same crime or a similar crime.

- Instigating fights between animals. Wis. Stat. § 951.08.
- Any violations of Chapter 29: “Wild Animals and Plants.”
- Any violations of Chapter 30: “Navigable Waters, Harbors and Navigation.”
- Any violations of Chapter 94: “Plant Industry.”
- Any violations of Chapter 95: “Animal Health.”

The penalty for federal offenses committed after conviction of a state crime may also be substantially more severe. U.S. Sentencing Guidelines Manual ch. 4 (2016).

Offenses Related to Professional Occupations

A person convicted of any of the following may face a greater penalty if subsequently convicted of the same crime or a similar crime.

- Licensing care and service residential facility offenses. Wis. Stat. § 50.03.
- Home health agencies licensing and regulation offenses. Wis. Stat. § 50.49.
- Antique dealer offenses. Wis. Stat. § 124.695.
- Prohibited sale of certain merchandise by employers to employees. Wis. Stat. § 134.04.
- Cigarette and tobacco product retailer offenses. Wis. Stat. § 134.65.
- Offenses related to the business of pawnbrokers, sellers of secondhand articles, and jewelry dealers. Wis. Stat. § 134.71.
- Prohibited practices by real estate agents. Wis. Stat. § 452.17(4)(a)2.

The above list is not comprehensive. For additional information about greater penalties upon repeated offenses relating to professional occupations, see Wis. Stat. chapters 440 to 440.

The penalty for federal offenses committed after conviction of a state crime may also be substantially more severe. U.S. Sentencing Guidelines Manual ch. 4 (2016).

11. Specific Consequences for Sexual Offenses

People convicted of sex offenses face a wide array of consequences besides prison time. Because those consequences change frequently and are often imposed by local governments, they cannot be fully documented in this publication. The following considerations are, however, likely to apply.

Residency and Zoning Restrictions

- Although Wisconsin does not have a statewide law restricting where sex offenders can live, many municipalities and counties within Wisconsin—as well as many other states—do have such laws.
- Residency restrictions range from limitations on proximity to facilities, such as schools, parks, and daycares, to effective banishment from a city or town. Some policies apply only to sexually violent predators and specifically include or exclude juveniles; others apply more broadly. Zoning restrictions in some areas limit the number of unrelated sexual offenders living together. Additionally, some loitering ordinances target individuals who have been convicted of sexual crimes. Violation of such policies can result in civil or criminal penalties.

For an outline regarding both state and municipal laws in this area, see N. DeSiato, *Sex Offender Residency Restriction*, accessible at lwm-info.org/DocumentCenter/View/732 (current through 2015 Wis. Act 156, effective March 2, 2016).

Registration Requirements

- Wisconsin laws regarding sex offender registration requirements are set forth in Wis. Stat. § 301.45.
- Registration laws and opportunities to terminate registration obligations vary greatly among states, and anyone potentially subject to registration who moves to another state needs to know the rules of the state of residence as well the rules in the state where the conviction occurred (*see below*, Travel Between States).
 - Current Wisconsin laws on terminating registration obligations are set forth Wis. Stat. §§ 301.45(5).
- Designation as a sexually violent predator triggers specific rules, including public community notification meetings every time the person moves, Internet registration, and quarterly registration for life. Wis. Stat. §§ 301.46, 973.048.
- The person registering is required to provide to the Department of Corrections his or her addresses for home, work, and school, as well as information concerning his or her vehicles, e-mail addresses, etc. Wis. Stat. § 301.45(2) (statute also

requires annual registration (every 90 days for lifetime registrants) and reporting of updated information when changes occur, Wis. Stat. §§ 301.45(3), (4)).

Travel Between States

- A person who has successfully been removed from one state's registry may nonetheless be required to register in another state. A person whose registration obligations in another state have already been terminated may still be required to register in Wisconsin until he or she obtains a court order in Wisconsin excusing him or her from registration here. See Wis. Stat. §§ 301.45(4m), (5m).
- Some states restrict a wide array of activities by sex offenders, such as taking photographs, trick-or-treating, or entering public libraries. These restrictions may apply regardless of where the offender was convicted.
- Due to the diversity of registration obligations, anyone traveling outside of Wisconsin even for a short time should carefully investigate his or her obligations. Full registration may be required in another state depending on the length of the trip and laws of that state.

Social Stigma

- Even when a person's registration status does not require public posting on the Wisconsin Department of Correction's website,¹³ many private entities make available information concerning adult and juvenile sex offenders.
- Those convicted of sexual offenses may not be permitted on social networking sites such as Facebook.
- Nationally, there have been numerous incidences of vigilantism against those believed to have committed a sexual crime.

¹³ offender.doc.state.wi.us/public/

12. Specific Consequences for Controlled Substance Offenses

Conviction for an offense related to controlled substances may result in consequences not typically associated with other crimes. This section is intended to highlight those consequences and provide cross-references to the applicable portions of this publication. In addition to the consequences listed below, consequences applicable to all convictions will typically also apply to an offense related to controlled substances.

For information on consequences specific to offenses related to controlled substances, review the following chapters and sections of this publication:

Employment

Many of the professions listed in the Appendix are regulated by statutes or rules that specifically reference offenses related to controlled substances or drugs. For additional information, review the applicable profession.

Public Benefits Programs

- Eligibility for public housing will almost certainly be lost. *See Public Housing* (page 10).
- Eligibility for food stamps may be lost if the offense involved food stamps. *See Food Stamps* (page 11).
- Eligibility for student loans will almost certainly be lost. *See Federal Student Loan Eligibility* (page 12).
- The Wisconsin Works Program may be unavailable. *See Wisconsin Works Program* (page 12).
- Eligibility to live at an armed forces retirement home may be lost. *See Veterans Benefits* (page 13).

Family Concerns

- Adoption rights may not be granted. *See Wis. Stat. § 48.88(2)(aj)* (child welfare agency shall consider whether prospective parent abuses alcohol or drugs).

Firearms

- The ability to possess a firearm under federal law may be lost. *See Restrictions Under Federal Law* (page 18).

Citizenship and Immigration

- Subject to limited exceptions, a drug offense will result in either inadmissibility, deportability, or both. See *Citizenship and Immigration* (page 20).

Other Civil Rights and Privileges

- Driving privileges may be lost if the offense involved driving. See *Driving* (pages 22, 29, 42 and 44).
- Expulsion from school may occur. See *School Attendance* (page 25).
- Passport may be lost, if a passport was used. See *Passport* (page 27).

Greater Penalties Upon Repeat Offenses

- Commission of a subsequent controlled substance offense may be punished substantially more severely. See *Controlled Substance Offenses and Driving, Boating, and Flying Offenses* (page 29).

Additional Federal Consequences

- Federal law imposes additional consequences directly tied to controlled substance convictions.¹⁴

¹⁴ See generally wisconsin.ccresourcecenter.org/ (database of Wisconsin and federal consequences). In addition, the American Bar Association and the District of Columbia Public Defender Service have prepared an excellent (if somewhat dated) narrative summary of federal consequences. *Internal Exile: Collateral Consequences of Conviction in Federal Laws and Regulations*, available at americanbar.org/content/dam/aba/migrated/cccs/internalexile.authcheckdam.pdf.

Appendix: Individual Professions

The statutes regulating the following professions indicate that a criminal charge or conviction may result in adverse employment consequences such as the loss of a necessary license or inability to enter a field.

Accountant

- Pursuant to Wis. Stat. § 442.04(5), the examining board may deny certification as a certified public accountant to any person who has an arrest or conviction record of an offense substantially related to the occupation of an accountant.
- The examining board may also revoke, limit, or suspend for a definite period any certificate, license, or practice privilege, if it finds that the holder has violated any provision of Wis. Stat. chapter 442. Wis. Stat. § 442.12(1)(b).

Acupuncturist

- “Subject to the rules promulgated under Wis. Stat. § 440.03(1), the department [Department of Safety and Professional Services] may . . . deny, limit, suspend or revoke a certificate under Wis. Stat. chapter 451 if it finds that the applicant or certified acupuncturist has been arrested or convicted of an offense substantially related to the practice of an acupuncturist, or violated chapter 440 or any rule promulgated under this chapter.” See Wis. Stat. § 451.14.

Air Transportation, Airports, and Pilots

- Federal law requires a criminal history check for all persons employed as a security screener or in a position in which he or she has unescorted access to the aircraft of an air carrier or secured areas of an airport. 49 U.S.C. § 44936.
- Conviction of any of a long list of offenses, if committed within the last ten years, will bar employment in these positions. See 49 U.S.C. § 44936(b).

Alcohol Sales

- Licenses and permits related to alcohol beverages may be issued only to persons who do not have an arrest or conviction record, subject to the general requirements that the circumstances of a disqualifying offense must be substantially related to the nature of the occupation or employment. See Wis. Stat. § 125.04.
- No license or permit related to alcohol beverages may be issued under this chapter to any person who has habitually been a law offender or has been

convicted of a felony unless the person has been duly pardoned. Wis. Stat. § 125.04.

- The Department of Revenue may suspend or revoke any license for which a false statement was made in the application and for any prior or subsequent violation by the licensee of any of the laws of this state relating to fermented malt beverages. Wis. Stat. § 139.05(7)(c) (violation by the licensee's associate may also result in this adverse action).
- The court shall suspend any license or permit issued to a person under Wis. Stat. chapter 125 (regulation of alcoholic beverages) if the person has been found guilty of multiple underage drinking violations of chapter 125 within a certain time period. See Wis. Stat. § 125.07(1)(b)3 (length of suspension varies according to number of violations within the previous year).

Either the Department of Revenue or a municipality may revoke, suspend, or decline to renew a liquor license for any of reasons set forth in Wis. Stat. § 125.12.

The license holder has the right to a hearing regarding the adverse action, with the procedures varying according to the nature of the action (revocation, suspension, or non-renewal) and the person or organization alleging grounds for the action (individual, municipality, or Department of Revenue). See Wis. Stat. § 125.12.

For additional information regarding licensing criteria and the types of licenses, see Wis. Stat. chapter 125.

Architect, Landscape Architect, Professional Engineer

- No person who has an arrest or conviction record, the circumstances of which are substantially related to the occupation of architect, landscape architect or a professional engineer, is eligible for registration in these fields or for certification as an engineer-in-training. Wis. Stat. § 443.09(2).
- Under Wis. Stat. § 443.11, the examining board may limit, suspend, or revoke the certificate of registration of any registrant, and the certificate of record of any engineer-in-training, who is convicted of a felony or adjudicated mentally incompetent, if the circumstances of the case are substantially related to the occupation of architect, landscape architect or a professional engineer.

See also Wis. Stats. §§ 443.12 (land surveyors), 443.13 (designers of engineering systems).

Athletic Trainer or Athlete Agent

- The affiliated credentialing board may deny, limit, suspend, or revoke the athletic trainer's license granted under Wis. Stat. chapter 448, subchapter VI, if it finds

that the applicant or licensee has an arrest or conviction record for an offense the circumstances of which are substantially related to the occupation of an athletic trainer. Wis. Stat. § 448.957(2).

For more information, see Wis. Stat chapter 448, subchapter VI.

- The Department of Safety and Professional Services may refuse to issue a certificate of registration if the department determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the department may consider whether the applicant has been convicted of a crime that, if committed in this state, would be a felony and the circumstances of which are substantially related to the work of an athlete agent. Wis. Stat. § 440.992(2).

For more information of registration requirements, see Wis. Stat. §§ 440.9915, 440.992.

Attorney

- Applicants for admission to the bar must demonstrate that have "good moral character." Supreme Court Rule (SCR) 40.06(1). The Board of Bar Examiners considers any "unlawful conduct" as grounds for further inquiry into the applicant's character and fitness. SCR Chapter 40 Appendix, BA 6.02. In evaluating prior misconduct, the Board considers a number of factors, including the seriousness of the misconduct, the time that has passed since it occurred, and the applicant's age at the time. See SCR Chapter 40 Appendix, BA 6.03.
- Any attorney can be disbarred, suspended, censured, or admonished for any act or omission that violates the criminal laws of this state, any other state, or of the United States. See SCR 20:8.4 (professional misconduct). Conviction is not a prerequisite to disciplinary action, and acquittal does not necessarily bar such action.

Any attorney's license may be revoked or suspended for criminal acts that involve dishonesty, fraud, or misrepresentation, as well as for any criminal act "that reflects adversely on an attorney's honesty, trustworthiness or fitness as an attorney in other respects." SCR 22.001(9) (definition of "misconduct"). See also SCR 21.16 (general summary of potential discipline). A conviction of any felony or a lesser crime reflecting adversely on fitness to practice law can result in immediate suspension pending disciplinary proceedings. See SCR 22.20.

Audiologist

- Among other requirements, an individual must submit satisfactory evidence to the hearing and speech examining board that he or she does not have a conviction

record in order for the examining board to grant an audiologist license. Wis. Stat. § 459.24(3)(c).

- The examining board may deny, limit, suspend, or revoke a license or permit under this subchapter if it finds that the applicant, licensee, or permittee has been convicted of violating any federal or state statute, rule or regulation the circumstances of which are substantially related to the practice of fitting and dealing in hearing aids.

For additional information, see Wis. Stat. § 459.34(2).

Automobile Sellers, Dealers, and Manufacturers

- A motor vehicle dealer's, salesperson's, wholesale motor vehicle auction dealer's may be denied, suspended, or revoked if the person has committed or commits any of the following:
 - Fraudulent sale, consumer lease, prelease agreement, transaction, or repossession.
 - Violation of any law relating to the sale, lease, distribution, or financing of motor vehicles.
 - Violation of any rule in Wis. Stat. chs. 421 to 427 or 429.

For a more comprehensive list, see Wis. Stat. § 218.0116.

Bank, Credit Union, Trust Company, and Lender Employees

- An individual who has been convicted of a crime against federal or state banking law may not be elected director (Wis. Stat. § 221.0602) or officer (Wis. Stat. § 221.0620(5)) of a bank.
- Except with the consent of the corporation, federal law prohibits any person who has been convicted of any criminal offense involving dishonesty, a breach of trust, or money laundering, or who has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, from owning, controlling, or working in a federally insured bank. 12 U.S.C. § 1829(a)(1).
- An exception may be made after ten years from the date of conviction.

Barber

- The Department of Safety and Professional Services may deny or revoke an individual's barber license if the individual has been convicted of a felony substantially related to the practice of barbering. Wis. Stat. § 454.23(2)(b).

Bingo Games

- A person is ineligible for a bingo supplier's license and may not act as a caller in the conduct of any game of bingo if he or she has been convicted of a felony and has not received a pardon or has not been released from parole, extended supervision, or probation for at least 5 years. Wis. Stat. §§ 563.27(1) and 563.51(29)(b).
- A violation of any "applicable" law or administrative rule shall constitute grounds for suspension or revocation of a supplier's license or a license to conduct bingo. Wis. Stat. § 563.18(5).

Child Care Agency (Entity)

- An individual may be ineligible for a license to operate a child welfare agency, group home, shelter care facility, an organization that facilitates delegation of care, or temporary employment agency for caregivers if either of the following applies to the person or an employee of the organization in question:
 - Conviction of a serious crime as defined in Wis. Stat. § 48.685(1)(c).
 - Convicted of an offense that is not a serious crime, but in the estimation of the Department of Children and Families (or other applicable department or agency) is substantially related to the care of a client.

For additional information, see Wis. Stat. § 48.685. As described in the next entry, this same statute sets forth restrictions on individual employment in the field of child care.

Child Care Provider

- The Department of Children and Families may not license a child care provider, may not continue or renew the license of a child care provider, and may not license or renew the license of a foster home, if the person has been convicted of any of the following:
 - First-degree intentional homicide. Wis. Stat. § 940.01.
 - First-degree reckless homicide. Wis. Stat. § 940.02.
 - Felony murder. Wis. Stat. § 940.03.
 - Second-degree intentional murder. Wis. Stat. § 940.05.
 - Assisting suicide. Wis. Stat. § 940.12.
 - Battery. Wis. Stat. § 940.19.
 - Sexual exploitation by a therapist. Wis. Stat. § 940.22.
 - Felony sexual assault. Wis. Stat. § 940.225.
 - Abuse of individuals at risk. Wis. Stat. § 940.285.
 - Abuse of a resident of a penal facility. Wis. Stat. § 940.29.
 - Abuse or neglect of patients or residents. Wis. Stat. § 940.295.

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- Representations depicting nudity. Wis. Stat. § 942.09.
- Sexual assault of a child. Wis. Stat. § 948.02.
- Engaging in repeated acts of sexual assault of the same child. Wis. Stat. § 948.025.
- Physical abuse of a child. Wis. Stat. § 948.03.
- Sexual exploitation of a child. Wis. Stat. § 948.05.
- Trafficking a minor. Wis. Stat. § 948.051.
- Causing a child to view or listen to sexual activity. Wis. Stat. § 948.055.
- Incest with a child. Wis. Stat. § 948.06.
- Child enticement. Wis. Stat. § 948.07.
- Soliciting a child for prostitution. Wis. Stat. § 948.08.
- Sexual assault of a child placed in substitute care. Wis. Stat. § 948.085.
- Exposing a child to harmful material or harmful descriptions or narrations. Wis. Stat. § 948.11.
- Possession of child pornography. Wis. Stat. § 948.12.
- Child sex offender working with children. Wis. Stat. § 948.13.
- Neglecting a child. Wis. Stat. § 948.21.
- Abduction of another's child. Wis. Stat. § 948.30.
- Child unattended in child care vehicle. Wis. Stat. § 948.53.

This list is not comprehensive: for additional information, see Wis. Stat. § 48.685.

- However, the department may license, certify, or renew the license of a person convicted of certain crimes listed above if the person demonstrates that he or she has been rehabilitated.

For more information, see Wis. Stat. § 48.685(5).

- Additionally, the department may refuse to license a person as a child care provider if the person has been convicted or adjudicated delinquent (after attaining age 12) of an offense that is not defined as a serious crime, but in the estimation of the department is substantially related to the care of a client. Wis. Stat. § 48.685(5m).

Chiropractor

- The chiropractic examining board shall not certify an individual as a chiropractic radiological technician or chiropractic technician if that individual has an arrest or conviction the circumstances of which are substantially related to the occupation of a chiropractor. Wis. Stat. §§ 446.025(2)(a), 446.026(2)(a).
- Under Wis. Stat. § 446.03, the chiropractic examining board may deny, limit, suspend, or revoke any license if the licensee is convicted of a violation of any law governing the practice of chiropractic, convicted of any felony, addicted to alcohol or drugs, or found guilty unprofessional conduct (as defined in Wis. Stat. § 446.04).

For additional information, see Wis. Stat. chapter 446.

Commercial Driver

- The Department of Transportation shall not issue a license to a person who has been convicted of any of the following (Wis. Stat. § 343.06(1)(i)):
 - Sexual assault. Wis. Stat. § 940.225.
 - Sexual assault of a child. Wis. Stat. § 948.02.
 - Engaging in repeated acts of sexual assault of the same child. Wis. Stat. § 948.025.
 - Child enticement. Wis. Stat. § 948.07.
 - Sexual assault of a child placed in substitute care. Wis. Stat. § 948.085.

- If the juvenile court makes a finding that issuance of a license will be harmful to the public safety and welfare, an adjudication of delinquency under Wis. Stat. chapter 938 (Juvenile Justice Code) for an offense similar to those listed above will also result in denial of a license.

For more information, see Wis. Stat. § 343.06(1)(i).

- A person shall be disqualified from operating a commercial motor vehicle for a one-year period upon a first conviction of any of the following offenses while engaged in commercial motor-vehicle related activities (Wis. Stat. § 343.315(2)):
 - Driving or operating a motor vehicle while under the influence of alcohol, a controlled substance, a controlled substance analog, or a combination thereof or while under the influence of any drug that renders the person incapable of safely driving.
 - Leaving the scene of an accident involving a motor vehicle driven or operated by the person.
 - Using a motor vehicle in the commission of a felony.
 - Causing a fatality through negligent or criminal operation of a motor vehicle.

- Subsequent convictions may lead to permanent suspension of license. Wis. Stat. § 343.315(2)(c).

For additional information, see Wis. Stat. § 343.315(2).

- Reporting requirements:
 - A person, after applying for or receiving a commercial driver license issued by this state, who is convicted of violating a traffic law of this state or the law of another jurisdiction, other than a parking violation, shall notify the Department of Transportation within 30 days. Wis. Stat. § 343.245(2)(a)1.

For more information on reporting requirements, see Wis. Stat. § 343.245.

- Federal law imposes additional disqualifications for offenses, including leaving the scene of an accident caused by a commercial motor vehicle, using a commercial vehicle while committing a felony, driving a commercial vehicle while license revoked or disqualified, and causing a fatality through operation of a commercial vehicle. 49 U.S.C. § 31310.

Correctional Facility Employee

- It is the policy of the Department of Corrections (DOC) not to employ people currently under the supervision of the criminal justice system. See Wisconsin Dept. of Corrections Executive Directive 42 (2001).

Because correctional facilities are included by statute in the listing of educational agencies, Wis. Stat. § 111.335(1)(d) allows DOC to deny or terminate employment on the basis of any felony conviction.

Cosmetologist

- No initial license for cosmetology may be issued by the cosmetology examining board if the applicant has been convicted of a felony committed while engaged in the practice of cosmetology, if the circumstances are substantially related to the practice. Wis. Stat. § 454.06(1)(b).
- The cosmetology examining board may revoke, limit, suspend, or refuse to issue or renew a license or permit if it finds that the holder or applicant has been convicted of a felony committed while engaged in the practice of cosmetology, if the circumstances are substantially related to the practice, or has violated any rule adopted under Wis. Stat. chapter 454, subchapter I.

This list is not comprehensive: for additional information, see Wis. Stat. § 454.15.

Dentist and Dental Hygienist

- The dentistry examining board may deny, limit, suspend, or revoke the license of any dentist or dental hygienist if the dentist or dental hygienist has an arrest or conviction record the circumstances of which are substantially related to the person's occupation or has violated any rule or provision under Wis. Stat. chapter 450 (Pharmacy Examining Board) or 961 (Uniform Controlled Substance Act).

This list is not comprehensive: for additional information, see Wis. Stat. § 447.07.

Driver of Passenger Vehicle

- If the sentencing court makes a finding that issuance of a license will be contrary to the public safety and welfare, the Department of Transportation shall not issue a license, until one year after completion of the sentence, to any person who has been convicted of any of the following offenses (Wis. Stat. § 343.06(1)(i)):
 - Wis. Stat. § 940.225 (Sexual assault).
 - Wis. Stat. § 948.02 (Sexual assault of a child).
 - Wis. Stat. § 948.025 (Engaging in repeated acts of sexual assault of the same child).
 - Wis. Stat. § 948.07 (Child enticement).
 - Wis. Stat. § 948.085 (Sexual assault of a child placed in substitute care).

- If the juvenile court makes a finding that issuance of a license will be harmful to the public safety and welfare, an adjudication of delinquency under Wis. Stat. chapter 938 (Juvenile Justice Code) for an offense similar to those listed above will also result in denial of a license until one year after completion of the juvenile disposition. Wis. Stat. § 343.06(1)(i).

- The Department of Transportation shall revoke a person's operating privilege upon receiving a record of conviction showing that the person has been convicted of any of the following offenses (Wis. Stat. § 343.31(1)):
 - Homicide or great bodily harm resulting from the operation of a motor vehicle (conviction of Wis. Stat. § 346.62(4) (Reckless driving); Wis. Stat. § 940.06 (Second-degree reckless homicide); Wis. Stat. § 940.09 (Homicide by intoxicated use of vehicle or firearm); Wis. Stat. § 940.10 (Homicide by negligent operation of vehicle); or Wis. Stat. § 940.25 (Injury by intoxicated use of a vehicle)).
 - Any felony in the commission of which a motor vehicle is used.
 - Knowingly fleeing or attempting to elude a traffic officer under Wis. Stat. § 346.04 (3).

For a complete list of convictions that may cause revocation or suspension of a person's operating privilege, see Wis. Stat. § 343.31.

- Courts may also suspend a person's operating privilege upon certain convictions, such as under-aged possession or use of alcoholic beverages (Wis. Stat. § 125.07(4)(bs)).

For further information on certain convictions that may cause courts to suspend a person's operating privilege, see Wis. Stat. § 343.30.

Educator

- The state superintendent (Department of Public Instruction) may not grant a teaching certificate or license if the applicant has been convicted of a felony specified under Wis. Stat. § 118.19(4)(a) anytime during the 6 years before applying for a teaching certificate or license.

Emergency Medical Technician (EMT) and First Responders

- The Department of Health Services may deny licensure as an EMT if the applicant has an arrest or conviction record. Wis. Stat. § 256.15(6).
- An individual may be ineligible for certification as a first responder if he or she has an arrest or conviction record for a crime substantially related to employment as a first responder. Wis. Stat. § 256.15(8)(b)2.

Engineer

- See *Architect* (page 37).

Firefighters and Police Officers

- Employment criteria for firefighters and police officers are largely delegated to municipalities. See Wis. Stat. §§ 62.13 (cities), 61.65 (villages). A municipality shall require firefighters and/or police officers to take a physical and educational examination to qualify for employment as a firefighter and/or police officer. Wis. Stat. §§ 62.13(4), 61.65(3g)(d)2.
 - o An individual may be ineligible for this examination (and therefore ineligible for employment) if the person has an arrest or conviction record the circumstances of which are substantially related to the employment or occupation of a firefighter and/or police officer. Wis. Stat. §§ 62.13(4)(d), 62.50(5), and 61.65(3g)(d).

Fireworks

- A license to sell or operate fireworks may be denied, suspended, revoked, or not renewed upon conviction for any felony. See 18 U.S.C. §§ 842(i)(1), 843(b)(6). See also Wis. Stat. § 167.10 regarding Wisconsin licensing procedures.

Fundraisers and Paid Solicitors

- The Department of Financial Institutions may deny, limit, suspend, or revoke the registration of a charitable organization, fund-raising counsel, or professional fund-raiser if the applicant or registrant (including an officer, trustee, or director) has been convicted of a crime (felony or misdemeanor) the circumstances of

which are substantially related to fundraising activities. Wis. Stat. §§ 202.021(2)(bn), 202.06(2)(d).

Funeral Establishments and Mortuaries

- To be eligible for an original funeral director's license, the individual must not have an arrest or conviction record for an offense the circumstances of which are substantially related to funeral establishment or mortuary employment. Wis. Stat. § 445.045(1)(b).

Gambling-Related Employment

- The Department of Administration shall permanently revoke the license of any licensee who has administered a medication or foreign substance to an animal in violation of Wis. Stat. § 562.09(1). Wis. Stat. § 562.05(8)(b).
- The Department of Administration shall permanently revoke the license of any licensee who violates Wis. Stat. § 562.105 (humane killing of dogs). Wis. Stat. § 562.05(8)(c).
- No racetrack operation license may be issued to any person to whom any of the following applies:
 - The person has been convicted of a felony within 20 years before the date of application or has a pending felony charge.
 - The person has been convicted of fraud or misrepresentation in connection with racing or animal breeding.
 - The person has been convicted of a violation related to racing, pari-mutuel wagering, or of any other form of gambling defined as a serious violation by rule of the Department of Revenue.
 - The person has knowingly violated a rule or order of the department relating to pari-mutuel racing or any provision of Wis. Stat. chapters 562, 27, 182, or 945.
 - The person has been convicted of a violation of any state or federal law related to the humane treatment of animals, including any rule promulgated under Wis. Stat. §§ 562.02 (1) (b) or 562.105.

For additional information, see Wis. Stat. § 562.05(5).

Government Contracts and Contractors

- A person may be disqualified from consideration for award of government contracts or participation in government programs following conviction of a criminal offense related to obtaining or attempting to obtain a public or private contract or related to the performance of such contract. A wide variety of state

and federal laws and administrative regulations apply to specific programs, and the following are just examples of these consequences:

- Health care providers, either individuals or organizations, can be suspended or terminated from participation in the Medicare program for a conviction of a crime related to the Medicare program. See Wis. Admin. Code DHS §§ 106.06(6), (8).
 - Child care providers are not eligible for government licenses or contracts following conviction of a serious crime as defined in Wis. Stat. § 48.685(1)(c) (subject to a process applicable to certain convictions for the applicant to show rehabilitation). See Wis. Stat. §§ 48.685(4m), (5).
 - A background check is required for an applicant for a contract to have direct access to vehicle or driver license records. Wis. Admin. Code Trans § 195.11. This provision of the administrative code is an example of a rule implying that the oversight agency (Department of Transportation in this case) may consider the results of the background check in evaluating the application.
- Conviction of a wide variety of offenses can result in a loss of the ability to contract with the federal government or participate in federal government programs (i.e. healthcare providers receiving government payments, defense contractors, other applicants for federal grants or contracts, etc.). These consequences are beyond the scope of this publication.¹⁵

Hearing Aid Provider

- See *Audiologist* (page 38).

Horse Racing

- No license may be issued by the Department of Administration to any person to whom any of the following applies:
- The person has been convicted of a felony within 20 years before the date of application for which he or she has not been pardoned and restored to full civil rights or has a pending felony charge under state or federal law.
 - The person has been convicted of fraud or misrepresentation in connection with racing or animal breeding.
 - The person has knowingly violated a rule or order of the department relating to pari-mutuel racing or any provision of Wis. Stat. chapters 562, 27, 182, or 945.

¹⁵ See generally wisconsin.ccresourcecenter.org/ (database of Wisconsin and federal consequences). In addition, the American Bar Association and the District of Columbia Public Defender Service have prepared an excellent (if somewhat dated) narrative summary of federal consequences. *Internal Exile: Collateral Consequences of Conviction in Federal Laws and Regulations*, available at americanbar.org/content/dam/aba/migrated/cccs/internalexile.authcheckdam.pdf.

- The person has been convicted of a violation of any law of this or another state or of the United States related to the humane treatment of animals, including any rule promulgated under Wis. Stat. §§ 562.02 (1)(b) or 562.105.

This list is not comprehensive: for additional information, see Wis. Stat. § 562.05(5)(a).

Insurance Agent or Producer

- An insurance agent or producer license may be denied, revoked, or suspended if the individual has been convicted of a felony or within the previous 10 years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or a business involving securities, commodities, investments, franchises, insurance, banking, or finance. Wis. Stat. § 551.412(4)(c).
- Federal law places additional restrictions on people convicted of a felony related to insurance or involving dishonesty or a breach of trust. 18 U.S.C. § 1033(e).

Investment Advisor and Representative

- A license may be denied, revoked, or suspended if the individual has been convicted of a felony or within the previous 10 years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or a business involving securities, commodities, investments, franchises, insurance, banking, or finance. Wis. Stat. § 551.412(4)(c).
- Investment advisors required to register with the Securities Exchange Commission shall have their license limited or suspended for a period not to exceed twelve months if within the last ten years they have been convicted of a specified felony and misdemeanor offense (some of which are unrelated to securities). See 15 U.S.C. § 80b-3(e).
- Federal law also prohibits any person from working in virtually any capacity for a registered investment company if the person has been convicted within the last ten years of any felony or a misdemeanor related to securities. 15 U.S.C. § 80a-9(a).

Judge

- The Judicial Commission shall investigate any possible “misconduct” of a judge. Upon a finding of misconduct, the Judicial Commission must file a complaint with the Supreme Court, which has discretion as to the ultimate disposition.
 - “Misconduct” includes a felony conviction. Wis. Stat. § 757.81(4)(d).
 - Therefore, a judge may be removed if he or she is found guilty of a felony.

For additional information, see Wis. Stat. § 757.81(4).

Juvenile Facilities

- A juvenile correctional facility may refuse to employ or may terminate from employment an individual who has been convicted of any felony (related or unrelated to the employment). See Wis. Stat. § 111.335(1)(d)2.

Licensed Professional Counselor

- See *Mental Health Professional* (page 50).

Liquor License

- See *Alcohol Sales* (page 36).

Lottery-Related Jobs

- No person may serve as the administrator of lottery operations if he or she has been convicted of, or entered a plea of guilty or no contest to, any of the following:
 - A felony during the immediately preceding 10 years, unless the person has been pardoned.
 - A gambling-related offense.
 - Fraud or misrepresentation of any type.
 - A violation of a provision of chapter 565 or rule of the Department of Revenue relating to the state lottery.

For additional information, see Wis. Stat. § 565.02(1)(b).

- No lottery retailer contract may be entered into with a person if, during the immediately preceding 10 years, the person has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:
 - A felony.
 - Any gambling-related offense.
 - Fraud or misrepresentation of any type.
 - A violation of chapter 565 or any rule implementing this chapter.

For additional information, see Wis. Stat. §565.10(3).

Manicurist

- See *Barber* (page 39).

Marriage and Family Therapist

- See *Mental Health Professional* (below).

Massage Therapist

- The affiliated credentialing board shall deny or revoke a massage therapy license if the applicant or massage therapy license holder is convicted of any of the following:
 - Wis. Stat. § 940.22 (Sexual exploitation by therapist; duty to report).
 - Wis. Stat. § 940.225 (Sexual assault).
 - Wis. Stat. § 944.15 (Public fornication).
 - Wis. Stat. § 944.17 (Sexual gratification).
 - Wis. Stat. § 944.30(1m) (Prostitution).
 - Wis. Stat. § 944.31 (Patronizing prostitutes).
 - Wis. Stat. § 944.32 (Soliciting prostitutes).
 - Wis. Stat. § 944.33 (Pandering).
 - Wis. Stat. § 944.34 (Keeping place of prostitution).
 - Wis. Stat. § 948.02 (Sexual assault of a child).
 - Wis. Stat. § 948.025 (Engaging in repeated acts of sexual assault of the same child).
 - Wis. Stat. § 948.08 (Soliciting a child for prostitution).
 - Wis. Stat. § 948.085 (Sexual assault of a child placed in substitute care).
 - Wis. Stat. § 948.09 (Sexual intercourse with a child age 16 or older).
 - Wis. Stat. § 948.095 (Sexual assault of a child by a school staff person or a person who works or volunteers with children).
 - Wis. Stat. § 948.10 (Exposing genitals or pubic area).

For additional information, see Wis. Stat. §§ 460.05(1)(h), 460.14(2m).

Mental Health Professional

- A mental health institution or facility, if it provides an education program, may refuse employment or terminate employment of an individual who has been convicted of any felony. See Wis. Stat. § 111.335(1)(d).2 (state mental health facilities are specifically included within the definition of “educational agency” under this statute). A variety of other provisions apply to specific agencies, such as county emergency mental health services. See Wis. Admin. Code DHS § 34.03.

For additional information, see separate entries for specific occupations, such as *Nurse, Physician, and Psychologist*.

Midwife

- The Department of Safety and Professional Services may not grant a midwife license to any person who has been convicted of certain sexual offenses specified under Wis. Stat. § 440.982(2).

Military

- Each branch of the armed forces has different standards regarding what types of criminal histories are acceptable for personnel. Individuals with questions should contact an attorney or a recruiter.
- No person convicted of a felony shall be allowed to enlist in any armed force, absent an exception from the Secretary of Defense. 10 U.S.C. § 504(a).
- A misdemeanor domestic violence conviction may preclude military service because of the federal ban on firearms possession following such a conviction. See 18 U.S.C. § 922(g).

Mining (Miner)

- Under Wis. Stat. § 293.49(8), no operator may engage a general contractor or an affiliate to operate a mining site if the general contractor or affiliate has been convicted of more than one felony for violation of an environmental law arising out of the operation of a mining site in the United States within the previous 10 years, unless the general contractor or affiliate receives the approval from the Department of Natural Resources of a plan to prevent the occurrence in this state of similar violations.
- The Department of Natural Resources shall deny a mining permit if the applicant, a related person, or an officer or director of the applicant has, within 10 years before the application is submitted, been convicted of more than one felony for violations of arising out of the operation of a mining site in the United States, unless one of the following applies:
 - The person convicted has been pardoned for all of the felonies.
 - The person convicted is a related person or an officer or director of the applicant with whom the applicant terminates its relationship.

For additional information, see Wis. Stat. § 293.49(2)(d).

Mortgage Broker or Loan Originator

- The division of banking may deny an applicant a mortgage loan originator license if the division finds that the applicant has been convicted of, or pled guilty or no contest to, a felony during the 7-year period before the date of the application or

convicted at any time of a felony involving an act of fraud, dishonesty, breach of trust, or money laundering. Wis. Stat. § 224.725(3)(b).

- Under Wis. Stat. § 224.77(2m), if the division of banking finds that a mortgage banker, mortgage loan originator, or mortgage broker has violated any provisions of Wis. Stat. chapter 224, subchapter III, or any rule implemented by the division of banking under this subchapter (Wis. Stat. §§ 224.71 to 224.83, violations of which may result in misdemeanor convictions under Wis. Stat. § 224.80(1)), the division of banking may do any of the following:
 - Deny any application for initial issuance or renewal of a license.
 - Revoke, suspend, limit, or condition any license of the mortgage banker, mortgage loan originator, or mortgage broker.
- Disclosure of criminal convictions is required by Wis. Stat. § 224.77(1), and failure to disclose is a violation that may result in adverse action stated in Wis. Stat. § 224.77(2m).
- Federal law also places criminal-history based restrictions on licensure and registration as a state-licensed loan originator. See 12 U.S.C. § 5104(b).

Notary

- A notary public application may be rejected if the applicant has an arrest or conviction record for an offense the circumstances of which substantially related to employment or service as a notary. Wis. Stat. § 137.01(1)(b).

Nurse

- A requirement for licensure as a registered nurse is that the applicant must not have an arrest or conviction record the circumstances of which are substantially related to employment as a nurse. Wis. Stat. § 441.06(1)(b); see *also* Wis. Stat. § 441.10(1)(b) (identical provision for licensed practical nurse).
- The nursing board may revoke, limit, suspend, or deny renewal of a license of a registered nurse or a licensed practical nurse, including his or her certificate to prescribe drugs or devices granted under Wis. Stat. § 441.16, if the person is convicted of any of the following:
 - Fraud in the procuring or renewal of the certificate or license.
 - One or more violations of Wis. Stat. chapter 441 or any rule adopted by the board under the authority of that chapter.
 - A violation of any state or federal law that regulates prescribing or dispensing drugs or devices, if the person has a certificate to prescribe drugs or devices under Wis. Stat. § 441.16.

This list is not comprehensive: for additional information, see Wis. Stat. § 441.07.

Nursing Home Administrators

- The nursing home administrator examining board may deny a person from taking the examination for licensure as a nursing home administrator if the applicant has an arrest or conviction record for an offense the circumstances of which are substantially related to employment as a nursing home administrator. Wis. Stat. § 456.04 (2).

Optometrist

- The optometry examining board may not issue a license or certificate of registration to an applicant if he or she has an arrest or conviction record the circumstances of which are substantially related to employment as an optometrist. Wis. Stat. § 449.05(1)(a).

Pesticide Dealer or User

- Certification of a private pesticide applicator may be terminated or suspended by the Department of Agriculture, Trade and Consumer Protection for failure to comply with the terms and conditions of its issuance or for a violation of any rule promulgated under Wis. Stat. §§ 94.67 to 94.71 (these violations may constitute misdemeanor offenses under Wis. Stat. § 94.77(1)). See Wis. Stat. § 94.705(1)(b).

Pharmacist

- The pharmacy examining board may deny, revoke, suspend, or limit the license of any person licensed under Wis. Stat. chapter 450 who has been convicted of any of the following:
 - Engaging in unprofessional conduct (as defined in Wis. Stat. § 450.10(1)(a)).
 - Violating Wis. Stat. chapter 450 (Pharmacy Examining Board Rules and Provisions), chapter 961 (Uniform Controlled Substances Act), or any federal or state statute or rule substantially related to the practice of a pharmacist.
 - Any offense the circumstances of which are substantially related to the practice of a pharmacist.
- Adjudication as mentally incompetent by a court may also result in the person being ineligible to obtain or maintain a pharmacist license.

For additional information, see Wis. Stat. § 450.10(1)(b).

Physical Therapist (or Physical Therapist Assistant)

- The physical therapy examining board may deny, limit, suspend, or revoke a physical therapist license if it finds that the applicant or licensee has been convicted of any of the following:
 - An offense substantially related to employment as a physical therapist.
 - Interfering with an investigation or disciplinary proceeding by using threats, harassment, or intentional misrepresentation of facts.
 - Engaging in unprofessional or unethical conduct in violation of the code of ethics established in the rules implementing Wis. Stat. § 448.527.
 - Engaging in sexual misconduct with a patient.
 - Any violation of the rules promulgated under Wis. Stat. chapter 448, subchapter III (these violations are classified as misdemeanors by Wis. Stat. § 448.59).

This list is not comprehensive: for more information, see Wis. Stat. § 448.57(2).

Physician and Osteopath

- If a court finds a person guilty of unprofessional conduct or negligence in treatment, the medical examining board may limit, suspend, or revoke any license certificate or limited permit granted to that person. Wis. Stat. § 448.02(3)(c).
 - “Unprofessional conduct” is defined in Wis. Stat. § 448.015(4)(am) and includes crimes under Wis. Stat. chapters 450 (pharmacy examining board) and 961 (controlled substances).
 - Conviction of violating Wis. Stat. § 448.115 (physician’s duty to report misconduct of another physician) may also trigger disciplinary action by the medical examining board.
- To be qualified for the grant of any license or certificate by the medical examining board, the applicant must not have an arrest or conviction record the circumstances of which are substantially related to employment as a physician or osteopath. Wis. Stat. § 448.05(1)(a).

Plumber

- The Department of Safety and Professional Services may suspend or revoke a plumber’s license, registration, or permit if it finds that the holder of the license has been convicted of any of the following:
 - Gross negligence or misconduct in the practice covered by the person’s license, registration, or permit;
 - Falsification of information on an inspection form under Wis. Stat. § 145.20(5).

This list is not comprehensive: for more information, see Wis. Stat. § 145.10(1).

Podiatrist

- The podiatry affiliated credentialing board may deny a podiatrist license if the applicant has an arrest or conviction record the circumstances of which are substantially related to the occupation or employment as a podiatrist. Wis. Stat. § 448.63(1)(c).
- If a court has found that a person is guilty of unprofessional conduct or negligence in treatment, the podiatry affiliated credentialing board may limit, suspend, or revoke any license certificate or limited permit granted to that person. Wis. Stat. § 448.675(1)(c).
 - “Unprofessional conduct” includes violations of Wis. Stat. chapters 450 (pharmacy examining board) and 961 (controlled substances) as well as violations of Wis. Stat. chapter 448, subchapter IV (rules of the podiatry affiliated credentialing board). Wis. Stat. § 448.60(5).

Police Officer

- See *Firefighters and Police Officers* (page 45).

Professional Employer Organizations

- The psychology examining board (general psychology license) or Department of Safety and Professional Services may deny a psychologist license to an individual with an arrest or conviction record the circumstances of which are substantially related to the practice of psychology. Wis. Stat. § 455.04(1)(b). See also Wis. Stat. § 455.09(1)(a) (grounds examining board to deny, suspend, or revoke license).

Psychologist

- The psychology examining board (general psychology license) or Department of Public Instruction may deny a psychologist license to an individual with an arrest or conviction record the circumstances of which are substantially related to the practice of psychology. Wis. Stat. § 455.04(1)(b). See also Wis. Stat. § 455.09(1)(a) (grounds for examining board to deny, suspend, or revoke license).

Real Estate Appraiser

- To receive an initial certificate of a real estate appraiser or a real estate appraiser license, an applicant must submit evidence satisfactory to the Department of Safety and Professional Services that he or she does not have an arrest or

conviction record the circumstances of which are substantially related to the practice of a real estate appraiser. Wis. Stat. § 458.06(2)(c).

- The Department of Safety and Professional Services may deny any certificate under Wis. Stat. chapter 458, and the real estate appraiser's board may limit, suspend, or revoke any certificate under Wis. Stat. chapter 458, if the department or board finds that the applicant for or the holder of the certificate has done any of the following:
 - Engaged in unprofessional or unethical conduct in violation of rules promulgated under Wis. Stat. § 458.24.
 - Been arrested or convicted of an offense the circumstances of which are substantially related to the practice of a real estate appraiser.
 - Violated Wis. Stat. chapter 458 or any rule promulgated under the authority of that chapter.

This list is not comprehensive: for more information, see Wis. Stat. § 458.26(3).

Real Estate Broker or Salesperson

- The real estate examining board may revoke, suspend, or limit any real estate broker's or salesperson's license or registration if the holder of the license or registration has been convicted of any of the following:
 - A felony that is a bar to licensure under Wis. Stat. §§ 452.25(1), (3) (administrative process available to determine whether, despite the conviction, applicant is suitable for licensing).
 - Intentionally encouraging or discouraging any person from purchasing or renting real estate in a particular area on the basis of race.
 - Any offense related to improper, fraudulent, or dishonest dealing.
 - Any provision of Wis. Stat. chapter 451 or any rule promulgated under the authority of that chapter.

This list is not comprehensive: for more information, see Wis. Stat. § 452.14(3).

Social Worker

- The appropriate section of the marriage and family therapy, professional counseling, and social work examining board may deny, limit, suspend, or revoke a credential under Wis. Stat. chapter 457 if it finds that the applicant or credential holder has been convicted of an offense the circumstances of which are substantially related to the practice of social work. Wis. Stat. § 457.26(2)(b).

For additional circumstances that may result in adverse action regarding a social worker's credential, see Wis. Stat. § 457.26(2).

Stockbroker and Securities Sales Representative

- Brokers and dealers required to register with the Securities Exchange Commission shall have their license limited or suspended for a period not to exceed twelve months if, within the last ten years, they have been convicted of a specified felony or misdemeanor offense. See 15 U.S.C. § 780(b)(4).

Surveyor

- Applicants for registration as a land surveyor or for a permit to practice may not be entitled to be registered or issued a permit to practice as land surveyors if the applicant has an arrest or conviction record the circumstances of which are substantially related to employment or occupation of a land surveyor. Wis. Stat. § 443.06(1)(a).

Veterinarian

- The veterinary examining board may deny, revoke, suspend, or limit a person's license, certificate or permit under Wis. Stat. chapter 453 if the person has been convicted of any of the following:
 - Engaging in unprofessional conduct, defined in Wis. Stat. § 453.07(1) to include any violation of Wis. Stat. chapters 440 (Department of Safety and Professional Standards) and 453 (Veterinary Examining Board).
 - An offense the circumstances of which are substantially related to the practice of veterinary medicine.

This list is not comprehensive: for more information, see Wis. Stat. § 453.07(2).