
Wisconsin Legislative Council

INFORMATION MEMORANDUM



IM-2024-03

SPECIFIC CONVICTION OR ARREST RECORDS CONSIDERED IN OCCUPATIONAL LICENSING

This information memorandum provides a summary table of professions that require the Department of Safety and Professional Services (DSPS) or a credentialing board to review a person's arrest or conviction record when granting, renewing, or reviewing an occupational credential.

GENERAL STANDARD

Wisconsin has established a broad standard that prohibits employment discrimination on the basis of an arrest or conviction record. Under this standard, DSPS and the credentialing boards are generally prohibited from considering a conviction record in granting, renewing, or reviewing an occupational credential for an individual. [ss. [111.321](#) and [111.322 \(1\)](#), Stats.]

However, the law allows DSPS or a credentialing board to refuse, bar, or terminate an occupational credential due to a conviction for a felony, misdemeanor, or other offense if the circumstances of the offense are “substantially related” to the circumstances of the licensed activity. [s. [111.335 \(3\) \(a\)](#), Stats.]

The statutes also identify situations in which a conviction record must be considered, as summarized in the table below. In some lines of work, DSPS is further required to refuse, bar, or terminate a credential for certain types of convictions, regardless of the nondiscrimination standards and the substantial relationship test.

SPECIFIC CONSIDERATION

As noted above, in addition to the general standard for consideration of circumstances that may be substantially related to the circumstances of a licensed activity, DSPS and the credentialing boards are required to analyze the circumstances of certain offenses in relation to certain professions.

The following table identifies whether the governing provisions for a profession regulated by DSPS or a credentialing board require an offense to be considered. The table indicates what type of criminal history must be considered, and provides the citation for the profession-specific requirement.¹

For an overview of the standards used in reviewing an applicant's criminal records history, see Legislative Council, [Consideration of Conviction or Arrest Record in Occupational Licensing](#), IM-2024-02 (April 2024).

¹ The table summarizes only occupational credentials regulated by DSPS or a credentialing board for an individual person, and does not address business credentials regulated by DSPS or the credentialing boards.

However, if a profession does not require a specific consideration, credentialing in the profession remains subject to analysis as to whether the circumstances of an offense are substantially related to the circumstances of the licensed activity, under the general standard that allows consideration of a substantial relationship.

For an individual's arrest record, in each profession noted below where arrest may be considered, DSPS and the credentialing boards may only consider an arrest record that has a pending charge for an identified serious offense. An arrest without a pending charge for one of the identified serious offenses may not be considered.² [s. [111.335 \(1m\) \(b\)](#) and [\(4\) \(a\)](#), Stats.]

Entries emphasized in **bold** text identify offenses that prohibit credentialing altogether if a person has been convicted of the listed offense. In those cases, an analysis is not conducted to determine whether the circumstances of the offense are substantially related to the circumstances of the licensed activity.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Accountant, Certified Public	Yes	Arrest or conviction record, if circumstances are substantially related	s. 442.04 (5) (b) 2. , Stats.
Acupuncturist	Yes	Arrest or conviction record, if circumstances are substantially related	s. 451.04 (2) (c) , Stats.
Advanced Practice Nurse Prescriber	Yes	See entry for registered nurse	s. N 8.03 (1m) , Wis. Adm. Code.
Aesthetician	Yes	Felony committed while engaged in the practice of barbering or cosmetology, if circumstances are substantially related	s. 454.06 (1) (b) , Stats.
Anesthesiologist Assistant	No		
Appraiser: Certified General, Certified Residential, or Licensed ³	Yes	Arrest or conviction record, if circumstances are substantially related	ss. 458.06 (2) (c) and 458.08 (2) (c) , Stats.
Architect	Yes	Arrest or conviction record, if circumstances are substantially related	s. 443.09 (2) , Stats.

The table also does not address occupational credentials regulated by other agencies, such as teaching licenses and emergency medical service practitioner certification or licenses.

² The serious offenses are: all crimes in ch. 940, Stats., against life and bodily security; sexual assault of a child; repeated sexual assault of the same child; physical abuse of a child; sexual exploitation of a child; trafficking of a child; causing a child to view or listen to sexual activity; incest with a child; child enticement; use of a computer to facilitate a child sex crime; soliciting a child for prostitution; sexual assault of a child placed in substitute care; and sexual assault of a child by a school staff person or person who works or volunteers with children. [s. [111.335 \(1m\) \(b\)](#), Stats.]

³ An applicant is required to submit fingerprints for a criminal background check.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Art Therapist	Yes	Convicted or charged with a crime or traffic offense, which did or could result in suspension or revocation of driver's license; pending charge or conviction, if circumstances are substantially related	s. SPS 141.01 (3) , Wis. Adm. Code
Athlete Agent	Yes	Felony, if circumstances are substantially related	s. 440.992 (2) (a) , Stats.
Athletic Trainer	Yes	Arrest or conviction record, if circumstances are substantially related	s. 448.953 (1) (c) , Stats.
Auctioneer	Yes	Arrest or conviction record, if circumstances are substantially related	s. 480.08 (2) (c) , Stats.
Audiologist⁴	Yes	For state license: conviction record, if circumstances are substantially related For compact privilege: felony related to the practice of audiology⁵	s. 459.24 (3) (c) and 459.70 (3) (e) 5. , Stats.
Barber	Yes	Felony committed while engaged in the practice of barbering, if circumstances are substantially related	s. 454.23 (2) (b) , Stats.
Behavior Analyst	Yes	Convicted of certain crimes for sexual acts, solicitation, or trafficking⁶	s. 440.312 (2) , Stats.
Cemetery Authority: Licensed or Registered	Yes	Conviction record, if circumstances are substantially related to the sale of a cemetery lot, cemetery merchandise, or mausoleum space	s. 440.93 (1) (d) , Stats.
Cemetery Preneed Seller or Cemetery Salesperson	Yes	Conviction record, if circumstances are substantially related to the sale of a cemetery lot, cemetery merchandise, or mausoleum space	s. 440.93 (1) (d) , Stats.
Chiropractic Radiological Technician	Yes	Arrest or conviction record, if circumstances are substantially related	s. 446.025 (2) (a) 4. , Stats.
Chiropractic Technician	Yes	Arrest or conviction record, if circumstances are substantially related	s. 446.025 (2) (a) 4. , Stats.
Chiropractor	No		

⁴ An applicant will be required to submit fingerprints for a criminal background check when the requirement is implemented by the governing compact.

⁵ A conviction for a felony prohibits a compact privilege.

⁶ A conviction for an identified offense prohibits credentialing.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Clinical Substance Abuse Counselor	Yes	Pending criminal charge or convicted of a crime, if circumstances are substantially related	s. SPS 161.03 (8) , Wis. Adm. Code.
Clinical Supervisor: In-Training, Independent, or Intermediate	Yes	See entry for clinical substance abuse counselor	ss. SPS 161.04 (4) (a) and 161.05 (3) (a) , Wis. Adm. Code.
Cosmetologist	Yes	Felony committed while engaged in the practice of barbering or cosmetology, if circumstances are substantially related	s. 454.06 (1) (b) , Stats.
Dance Therapist	Yes	Convicted or charged with a crime or traffic offense, which did or could result in suspension or revocation of driver's license; pending charge or conviction, if circumstances are substantially related	s. SPS 141.01 (3) , Wis. Adm. Code
Dental Hygienist ⁷	Yes	Convicted of a crime, if circumstances are substantially related	s. 447.07 (3) (e) , Stats.
Dental Therapist	Yes	Convicted of a crime, if circumstances are substantially related	s. 447.07 (3) (e) , Stats.
Dentist ⁸	Yes	Convicted of a crime, if circumstances are substantially related	s. 447.07 (3) (e) , Stats.
Designer of Engineering Systems	No		
Dietitian	Yes	Criminal conviction or pending criminal charge	s. DI 2.01 (6) , Wis. Adm. Code.
Electrologist	Yes	Felony committed while engaged in the practice of barbering or cosmetology, if circumstances are substantially related	s. 454.06 (1) (b) , Stats.
Engineer-in-Training	Yes	Arrest or conviction record, if circumstances are substantially related	s. 443.09 (2) , Stats.
Expanded Function Dental Auxiliary	Yes	Convicted of a crime, if circumstances are substantially related	s. 447.07 (3) (e) , Stats.

⁷ An applicant will be required to submit fingerprints for a criminal background check when the requirement is implemented by the governing compact.

⁸ An applicant will be required to submit fingerprints for a criminal background check when the requirement is implemented by the governing compact.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Firearms Proficiency Certifier for Private Detective or Security Persons	Yes	Convicted of a felony or is prohibited from possessing a firearm ⁹ ; convicted of a misdemeanor or charged with a crime, if circumstances are substantially related	s. SPS 34.04 (2) (b) and (c) , Wis. Adm. Code.
Firearms Permit for Private Detective or Security Persons	Yes	Is prohibited from possessing a firearm (e.g., convicted of a felony) ¹⁰ ; convicted of a misdemeanor, if circumstances are substantially related	ss. SPS 34.01 (1) (d) and (e) and 34.015 (2) , Wis. Adm. Code.
Funeral Director or Apprentice	Yes	Arrest or conviction record, if circumstances are substantially related	ss. 445.045 (1) (b) and 445.095 (1) (a) 1. c. , Stats.
Genetic Counselor	Yes	Arrest or conviction record, if circumstances are substantially related	s. 448.9704 (1) (c) , Stats.
Hearing Instrument Specialist	Yes	Arrest or conviction record, if circumstances are substantially related	s. 459.06 (1) , Stats.
Home Inspector	Yes	Pending criminal charge, or convicted of a felony, misdemeanor, or other offense, if circumstances are substantially related	s. 440.972 (1) (c) , Stats.
Home Medical Oxygen Provider	No		
HVAC Contractor or Qualifier	No		
Juvenile Martial Arts Instructor ¹¹	Yes	First-degree intentional homicide, or sex offender registrant ¹²	s. 440.03 (17) (e) , Stats.
Landscape Architect	Yes	Arrest or conviction record, if circumstances are substantially related	s. 443.09 (2) , Stats.
Licensed Midwife	Yes	Convicted of certain crimes for sexual acts or crimes against children ¹³ ; other arrest or conviction record, if circumstances are substantially related	s. 440.982 (2) , Stats.; and s. SPS 181.01 (1) (c) , Wis. Adm. Code.

⁹ A conviction for a felony, or otherwise being prohibited from possessing a firearm, prohibits credentialing.

¹⁰ A conviction for a felony, or otherwise being prohibited from possessing a firearm, prohibits credentialing.

¹¹ An applicant is required to submit fingerprints for a criminal background check.

¹² A conviction for first-degree intentional homicide or a conviction that requires a person to register as a sex offender prohibits credentialing.

¹³ A conviction for an identified offense prohibits credentialing.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Licensed Practical Nurse ¹⁴	Yes	For state license: arrest or conviction record, if circumstances are substantially related For multistate license: felony ¹⁵ ; misdemeanor offense related to the practice of nursing as determined on a case-by-case basis	ss. 441.10 (1) (b) and 441.51 (3) (c) 7. and 8. , Stats.
Lift Apprentice, Helper, or Mechanic	No		
Limited X-Ray Machine Operator Permit	Yes	Arrest or conviction record, if circumstances are substantially related	s. 462.03 (1) (e) , Stats.
Manicurist	Yes	Felony committed while engaged in the practice of barbering or cosmetology, if circumstances are substantially related	s. 454.06 (1) (b) , Stats.
Marriage and Family Therapist	Yes	Pending charge for a serious offense ¹⁶ or violent crime against a child, or convicted of a crime, if circumstances are substantially related	s. MPSW 16.01 (5) , Wis. Adm. Code.
Massage Therapist or Bodywork Therapist	Yes	Convicted of certain crimes for sexual acts or crimes against children ¹⁷	s. 460.05 (1) (h) , Stats.
Master Electrician: Licensed, Registered, or Residential	No		
Master Plumber: Licensed, Restricted Appliance, or Restricted Services	No		
Music Therapist	Yes	Convicted or charged with a crime or traffic offense, which did or could result in suspension or revocation of driver's license; pending charge or conviction, if circumstances are substantially related	s. SPS 141.01 (3) , Wis. Adm. Code

¹⁴ An applicant for a multistate license is required to submit fingerprints for a criminal background check.

¹⁵ A conviction for a felony prohibits credentialing under a multistate license.

¹⁶ See footnote 2 for a list of the serious offenses.

¹⁷ A conviction for an identified offense prohibits credentialing.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Naturopathic Doctor or Limited Scope Naturopathic Doctor	Yes	Arrest or conviction record, if circumstances are substantially related	ss. 466.04 (1) (c) and 466.04 (2) (b) 3. , Stats.
Nurse-Midwife	Yes	See entry for registered nurse	s. N 4.03 (3) , Wis. Adm. Code.
Nursing Home Administrator	Yes	Arrest or conviction record, if circumstances are substantially related	s. 456.03 (2) , Stats.
Occupational Therapy Assistant ¹⁸	No		
Occupational Therapist ¹⁹	No		
Optometrist	Yes	Arrest or conviction record, if circumstances are substantially related	s. 449.04 (1) (a) , Stats.
Perfusionist	No		
Pharmacist	No		
Pharmacy Technician	No		
Physical Therapist ²⁰	Yes	Arrest or conviction record, if circumstances are substantially related	s. 448.53 (1) (c) , Stats.
Physical Therapist Assistant ²¹	Yes	Arrest or conviction record, if circumstances are substantially related	s. 448.535 (1) (c) , Stats.
Physician²²	Yes	For state license: arrest or conviction record, if circumstances are substantially related For compact license: convicted, adjudicated, or deferred disposition for a felony, gross misdemeanor, or crime of moral turpitude²³	ss. 448.05 (1) (a) and 448.980 (2) (k) 6. and (L) , Stats.

¹⁸ An applicant for a compact privilege is required to submit fingerprints for a criminal background check.

¹⁹ An applicant for a compact privilege is required to submit fingerprints for a criminal background check.

²⁰ An applicant is required to submit fingerprints for a criminal background check.

²¹ An applicant is required to submit fingerprints for a criminal background check.

²² An applicant for a compact license is required to submit fingerprints for a criminal background check.

²³ A conviction, adjudication, or deferred disposition for an identified offense prohibits credentialing.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Physician Assistant ²⁴	Yes	For state license: arrest or conviction record, if circumstances are substantially related For compact privilege: felony or misdemeanor conviction ²⁵	ss. 448.974 (1) (a) 6. and 448.988 (4) (a) 3. , Stats.
Pipelayer	No		
Plumbing: Apprentice, Learner Restricted Appliance, or Learner Restricted Service	No		
Podiatrist	Yes	Arrest or conviction record, if circumstances are substantially related	s. 448.63 (1) (c) , Stats.
POWTS: Inspector or Maintainer	No		
Prevention Specialist: Certified or In-Training	No		
Private Detective or Investigator ²⁶	Yes	Felony conviction ²⁷ ; other arrest or conviction record involving a misdemeanor, or a violation punishable by a forfeiture, if circumstances are substantially related	s. 440.26 (2) (c) 2. , Stats.; and s. SPS 31.02 (2) (a) , Wis. Adm. Code.
Private Security Person ²⁸	Yes	Felony conviction ²⁹ ; other arrest, or conviction record involving a misdemeanor, or a violation punishable by a forfeiture, if circumstances are substantially related	s. 440.26 (5m) (a) 2. and (am) , Stats.; and s. SPS 31.02 (3) (a) , Wis. Adm. Code.
Professional Counselor ³⁰	Yes	Conviction record, if circumstances are substantially related	s. 457.12 (1m) (bm) , Stats.

²⁴ An applicant will be required to submit fingerprints for a criminal background check when the requirement is implemented by the governing compact.

²⁵ A conviction for a felony or misdemeanor prohibits a compact privilege.

²⁶ An applicant is required to submit fingerprints for a criminal background check.

²⁷ A conviction for a felony prohibits credentialing.

²⁸ An applicant is required to submit fingerprints for a criminal background check.

²⁹ A conviction for a felony prohibits credentialing.

³⁰ An applicant will be required to submit fingerprints for a criminal background check when the requirement is implemented by the governing compact.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Professional Engineer	Yes	Arrest or conviction record, if circumstances are substantially related	s. 443.09 (2) , Stats.
Professional Geologist	Yes	Arrest or conviction record, if circumstances are substantially related	s. 470.04 (2) (a) , Stats.
Professional Hydrologist	Yes	Arrest or conviction record, if circumstances are substantially related	s. 470.04 (3) (a) , Stats.
Professional Land Surveyor	Yes	Arrest or conviction record, if circumstances are substantially related	s. 443.06 (1) (a) , Stats.
Professional Soil Scientist	Yes	Arrest or conviction record, if circumstances are substantially related	s. 470.04 (4) (a) , Stats.
Psychologist ³¹	Yes	Conviction record, if circumstances are substantially related	s. 455.04 (1) (b) , Stats.
Radiographer	Yes	Arrest or conviction record, if circumstances are substantially related	s. 462.03 (1) (e) , Stats.
Real Estate Broker or Salesperson	Yes	Felony conviction ³² ; however, if three years have passed since incarceration was completed or the applicant was released, the applicant may apply to the board for a determination as to whether the applicant is suitable to be granted a license	s. 452.25 (1) , Stats.
Registered Interior Designer	No		
Registered Nurse ³³	Yes	For state license: arrest or conviction record, if circumstances are substantially related For multistate license: felony ³⁴ ; misdemeanor offense related to the practice of nursing as determined on a case-by-case basis	ss. 441.06 (1) (b) and 441.51 (3) (c) 7. and 8. , Stats.
Registered Sanitarian	No		

³¹ An applicant is required to submit fingerprints for a criminal background check.

³² A conviction for a felony prohibits credentialing, but if three years have passed since completion of incarceration, the board may consider whether the applicant is suitable to be granted a license.

³³ An applicant for a multistate license is required to submit fingerprints for a criminal background check.

³⁴ A conviction for a felony prohibits credentialing under a multistate license.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Rental Weatherization Inspector	No		
Respiratory Care Practitioner	Yes	Arrest or conviction record, if circumstances are substantially related	s. 448.05 (1) (a) , Stats.
Sign Language Interpreter: Advanced or Intermediate Deaf, or Advanced or Intermediate Hearing	No		
Social Worker: Certified, Advanced Practice, Independent, Licensed Clinical, or Training Certificate	Yes	Pending charge for a serious offense ³⁵ or violent crime against a child, or convicted of a crime, if circumstances are substantially related	ss. MPSW 3.01 (5) , 3.05 (5) , 3.07 (6) , 3.09 (6) , and 3.13 (1) (c) , Wis. Adm. Code.
Soil Erosion Inspector	No		
Soil Tester	No		
Speech-Language Pathologist³⁶	Yes	For state license: conviction record, if circumstances are substantially related For compact privilege: felony related to the practice of speech-language pathology³⁷	s. 459.24 (2) (c) and 459.70 (3) (f) 6. , Stats.
Substance Abuse Counselor or Counselor In-Training	Yes	Pending criminal charge or convicted of a crime, if circumstances are substantially related	ss. SPS 161.01 (6) and 161.02 (7) , Wis. Adm. Code.
Tattooist or Body Piercer	No		

³⁵ See footnote 2 for a list of the serious offenses.

³⁶ An applicant will be required to submit fingerprints for a criminal background check when the requirement is implemented by the governing compact.

³⁷ A conviction for a felony prohibits a compact privilege.

Profession	The profession requires consideration of a criminal record	If profession specifies consideration, what type of criminal history is considered?	Citation for profession-specific requirement
Unarmed Combat Sports: Inspector, Judge, Matchmaker, Promoter, Referee, Representative, Ringside Physician, or Timekeeper	Yes	Violation of any law or rule relating to unarmed combat sports; violation of any law related to fraud or misrepresentation substantially related to unarmed combat sports; violation of an employment discrimination law	s. SPS 192.96 (1) (a) and (g) , Wis. Adm. Code.
Unarmed Combat Sports: Contestant or Second	Yes	Violation of any law or rule relating to unarmed combat sports; convicted of a crime, if circumstances are substantially related	s. SPS 192.96 (3) (a) and (f) , Wis. Adm. Code.
Uniform Dwelling Code (UDC) Construction Inspector, Electrical Inspector, HVAC Inspector, or Plumbing Inspector	No		
Welder	No		

This information memorandum was prepared by Margit Kelley, Principal Attorney, on April 5, 2024.