

WAC 388-113-0040 Are there any exceptions to the automatic disqualification under WAC 388-113-0020? (1) Under the conditions described in this section, an individual is not automatically disqualified from having unsupervised access to minors and vulnerable adults if he or she:

(a) Has worked continuously for the same employer for whom he or she was working on July 24, 2014; and

(b) Does not have a conviction or pending charge that was automatically disqualifying under rules that were in effect on July 24, 2014; and

(c) Works for a program or facility that operates under chapters 388-71 WAC, Individual providers and home care agencies; 388-76 WAC, Adult family home; 388-78A WAC Assisted living facility; or 388-97 WAC, Nursing homes and was convicted of, or has a pending charge for:

(i) Residential burglary;

(ii) Unlawful use of building for drug purposes (five or more years);

(iii) Vehicular assault; or

(d) Works for a program or facility that operates under chapter 388-825 WAC (developmental disabilities administration programs) or supported living and was convicted of, or has a pending charge for:

(i) Assault 3;

(ii) Manufacture of a controlled substance;

(iii) Delivery of a controlled substance; or

(iv) Possession of a controlled substance with the intent to manufacture or deliver.

(2) In addition to the requirements under subsection (1), in order for an individual to be eligible for an exception under this section, the following conditions must also be satisfied:

(a) The conviction date for the crimes listed in (1)(c) and (d) must be before July 25, 2014;

(b) The individual has to continue to work for the same employer; and

(c) The employer or hiring entity must:

(i) Review the individual's character, competence and suitability to have unsupervised access to minors or to vulnerable adults, and;

(ii) Have documentation on file demonstrating the results of the character, competence and suitability review; and

(iii) Have documentation on file demonstrating that the individual meets all of the conditions in subsection (2) of this section, including a copy of a background check result letter dated prior to July 25, 2014, indicating the individual was not disqualified from having unsupervised access to minors or vulnerable adults.

[Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.056. WSR 14-14-025, § 388-113-0040, filed 6/24/14, effective 7/25/14.]