

WAC 388-113-0020 Which criminal convictions and pending charges automatically disqualify an individual from having unsupervised access to adults or minors who are receiving services in a program under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, 388-115, and 388-107 WAC?

(1) Individuals who must satisfy background checks requirements under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, 388-115, and 388-107 WAC must not work in a position that may involve unsupervised access to minors or vulnerable adults if the individual has been convicted of or has a pending charge for any of the following crimes:

- (a) Abandonment of a child;
- (b) Abandonment of a dependent person;
- (c) Abuse or neglect of a child;
- (d) Arson 1;
- (e) Assault 1;
- (f) Assault 2 (less than five years);
- (g) Assault 3 (less than five years);
- (h) Assault 4/simple assault (less than three years);
- (i) Assault 4 domestic violence felony;
- (j) Assault of a child;
- (k) Burglary 1;
- (l) Child buying or selling;
- (m) Child molestation;
- (n) Coercion (less than five years);
- (o) Commercial sexual abuse of a minor/patronizing a juvenile prostitute;
- (p) Communication with a minor for immoral purposes;
- (q) Controlled substance homicide;
- (r) Criminal mistreatment;
- (s) Custodial assault;
- (t) Custodial interference;
- (u) Custodial sexual misconduct;
- (v) Dealing in depictions of minor engaged in sexually explicit conduct;
- (w) Drive-by shooting;
- (x) Drug crimes involving one or more of the following:
 - (i) Manufacturing or possession with the intent to manufacture a drug;
 - (ii) Delivery or possession with the intent to deliver a drug other than marijuana;
 - (iii) Delivery of marijuana (less than three years).
- (y) Endangerment with a controlled substance;
- (z) Extortion 1;
- (aa) Extortion 2 (less than five years);
- (bb) Forgery (less than five years);
- (cc) Homicide by abuse, watercraft, vehicular homicide (negligent homicide);
- (dd) Identity theft (less than five years);
- (ee) Incendiary devices (possess, manufacture, dispose);
- (ff) Incest;
- (gg) Indecent exposure/public indecency (felony);
- (hh) Indecent liberties;
- (ii) Kidnapping;
- (jj) Luring;
- (kk) Malicious explosion 1;
- (ll) Malicious explosion 2;
- (mm) Malicious harassment;

(nn) Malicious placement of an explosive 1;
 (oo) Malicious placement of an explosive 2 (less than five years);
 (pp) Malicious placement of imitation device 1 (less than five years);
 (qq) Manslaughter;
 (rr) Murder/aggravated murder;
 (ss) Possess depictions minor engaged in sexual conduct;
 (tt) Promoting pornography;
 (uu) Promoting prostitution 1;
 (vv) Promoting suicide attempt (less than five years);
 (ww) Prostitution (less than three years);
 (xx) Rape;
 (yy) Rape of child;
 (zz) Residential burglary;
 (aaa) Robbery 1;
 (bbb) Robbery 2 (less than five years);
 (ccc) Selling or distributing erotic material to a minor;
 (ddd) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
 (eee) Sexual exploitation of minors;
 (fff) Sexual misconduct with a minor;
 (ggg) Sexually violating human remains;
 (hhh) Stalking (less than five years);
 (iii) Theft 1 (less than 10 years);
 (jjj) Theft from a vulnerable adult 1;
 (kkk) Theft 2 (less than five years);
 (lll) Theft from a vulnerable adult 2 (less than 10 years);
 (mmm) Theft 3 (less than three years);
 (nnn) Unlawful imprisonment;
 (ooo) Unlawful use of building for drug purposes (less than five years);
 (ppp) Use of machine gun in a felony;
 (qqq) Vehicular assault;
 (rrr) Violation of temporary restraining order or preliminary injunction involving sexual or physical abuse to a child;
 (sss) Violation of a temporary or permanent vulnerable adult protection order (VAPO) that was based upon abandonment, abuse, financial exploitation, or neglect; and
 (ttt) Voyeurism.

(2) If "(less than 10 years)," "(less than five years)," or "(less than three years)" appears after a crime listed in subsection (1) of this section, the individual is not automatically disqualified if the required number of years has passed since the date of the conviction. This will result in a letter from the background check central unit indicating a character, competence, and suitability review is required before allowing unsupervised access to children or vulnerable adults. This provision applies to convictions that the department has determined under subsection (3) of this section as equivalent to a crime listed in subsection (1) of this section once the period of time listed in subsection (1) of this section has passed.

(3) When the department determines that a conviction or pending charge in federal court or in any other court, including state court is equivalent to a Washington state crime that is disqualifying under this section, the equivalent conviction or pending charge is also disqualifying.

(4) In instances where a court has issued a certificate of restoration of opportunity of one of the crimes listed above, according to the procedure in RCW 9.97.020, the conviction is not automatically disqualifying but is subject to a character, competence, and suitability review.

[Statutory Authority: RCW 74.08.090 and 74.39A.250. WSR 22-19-048, § 388-113-0020, filed 9/15/22, effective 10/16/22. Statutory Authority: RCW 74.08.090, 43.43.842, and 74.39A.056. WSR 21-23-014, § 388-113-0020, filed 11/4/21, effective 12/5/21; WSR 18-08-066, § 388-113-0020, filed 4/2/18, effective 5/3/18. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.056. WSR 14-14-025, § 388-113-0020, filed 6/24/14, effective 7/25/14.]