

Wisconsin State Crime Laboratory Bureau - DNA Databank Qualifying Offenses

A qualifying offense is an event that obligates a person to provide a biological specimen to the State Crime Laboratory for DNA analysis. Qualifying offenses are listed in Wisconsin State Statutes [165.76](#), [938.34\(15\)](#), [973.047](#), and various others. This document will provide a general outline of qualifying offenses for the purposes of the DNA Databank Unit and should not be used as a definitive legal document. This list may not include every possible qualifying offense. Consult the DNA Databank Unit at (608) 266-2031 or DNADatabank@doj.state.wi.us if there is a question about a qualifying offense.

- **Arrested (or juvenile taken into custody)** on or after April 1, 2015 for a felony violation of a "violent crime". A list of qualifying violations can be found [here](#).

One of the following must apply before the arrest sample can be processed for DNA:

- A court has made a finding of probable cause that the individual committed a violent crime.
 - The individual was arrested under an arrest warrant.
 - The individual failed to appear at the initial appearance or preliminary examination, or the person waived the preliminary examination.
 - The individual failed to appear for a delinquency proceeding under ch. 938.
- **Found guilty** of:
 - Any felony conviction on or after January 1, 2000
 - Any misdemeanor conviction with an offense date on or after April 1, 2015
 - Any of the following misdemeanor convictions on or after January 1, 2000:
 - 4th Degree Sexual Assault [940.225(3m)]
 - Lewd and Lascivious Behavior [944.20]
 - Exposing Genitals to a Child [948.10(1)(b)]
 - Failure to Submit a Biological Specimen [165.765(1)]
- **In prison** for:
 - Any felony committed in WI on or after January 1, 2000
 - Any of the following violations on or after August 12, 1993:
 - 1st or 2nd Degree Sexual Assault [940.225(1) or (2)]
 - 1st or 2nd Degree Sexual Assault of a Child [948.02(1) or (2)]
 - Repeated Sexual Assault of the Same Child [948.025]
- **Found to be a Sexually Violent Person** under ch. 980 on or after June 2, 1994
- **Found not guilty by reason of mental disease or defect**
 - on or after April 1, 2015 of:
 - Any felony
 - 4th Degree Sexual Assault [940.225(3m)]
 - Endangering Safety by Use of Dangerous Weapon [941.20(1)]
 - Lewd and Lascivious Behavior [944.20]
 - Prostitution [944.30(1m)]
 - Patronizing Prostitutes [944.31]
 - Pandering [944.33]
 - Exposing Genitals to a Child [948.10(1)(b)]
 - Failure to Submit a Biological Specimen [946.52 or 165.765(1), 2011 Stats.]
 - On or after January 1, 2000, **and committed** for:
 - Any felony
 - 4th Degree Sexual Assault [940.225(3m)]
 - Lewd and Lascivious Behavior [944.20]
 - Exposing Genitals to a Child [948.10(1)(b)]
 - Failure to Submit a Biological Specimen [946.52 or 165.765(1)]
 - On or after August 12, 1993, **and committed** for:
 - 1st or 2nd Degree Sexual Assault [940.225(1) or (2)]
 - 1st or 2nd Degree Sexual Assault of a Child [948.02(1) or (2)]
 - Repeated Sexual Assault of the Same Child [948.025]
 - Sexual Assault of a Child in Substitute Care [948.085]

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- **Sentenced or placed on probation** on or after August 12, 1993 - December 31, 1999 for:
 - Sexual Assault [940.225] (1st through 4th Degree)
 - 1st or 2nd Degree Sexual Assault of a Child [948.02(1) or (2)]
 - Repeated Sexual Assault of the Same Child [948.025]

- **On probation, extended supervision, parole, supervision, aftercare supervision, or in a juvenile correctional facility, secured residential care center for children and youth, or institutional care** on or after August 12, 1993 - December 31, 1999 for:
 - 1st or 2nd Degree Sexual Assault [940.225(1) or (2)]
 - 1st or 2nd Degree Sexual Assault of a Child [948.02(1) or (2)]
 - Repeated Sexual Assault of the Same Child [948.025]
 - Sexual Assault of a Child in Substitute Care [948.085]

- **In institutional care** on or after January 1, 2000 for:
 - Any felony
 - 4th Degree Sexual Assault [940.225(3m)]
 - Lewd and Lascivious Behavior [944.20]
 - Exposing Genitals to a Child [948.10(1)(b)]
 - Failure to Submit a Biological Specimen [946.52 or 165.765(1)]

- **Interstate Compact Probation Transfer into WI [\[165.76\(1\)\(e-f\)\]](#)** for a violation comparable to:
 - Any felony (in any state per legal opinion of 165.76(1)(av)) on or after January 1, 2000
 - Any of the following violations on or after July 9, 1996 - December 31, 1999:
 - 1st or 2nd Degree Sexual Assault [940.225(1) or (2)]
 - 1st or 2nd Degree Sexual Assault of a Child [948.02(1) or (2)]
 - Repeated Sexual Assault of the Same Child [948.025]
 - Sexual Assault of a Child in Substitute Care [948.085]

- **Juvenile adjudicated delinquent of:**
 - Any felony on or after April 1, 2015
 - Any of the following misdemeanors on or after April 1, 2015:
 - 4th Degree Sexual Assault [940.225(3m)]
 - Lewd and Lascivious Behavior [944.20]
 - Exposing Genitals to a Child [948.10(1)(b)]
 - Failure to Submit a Biological Specimen [946.52]
 - Endangering Safety by Use of a Dangerous Weapon [941.20(1)]
 - Prostitution [944.30(1m)]
 - Patronizing Prostitutes [944.31]
 - Pandering [944.33]
 - Any of the following violations on or after January 1, 2000 - March 31, 2015:
 - Sexual Assault [940.225] (1st through 4th Degree)
 - 1st or 2nd Degree Sexual Assault of a Child [948.02(1) or (2)]
 - Repeated Sexual Assault of the Same Child [948.025]
 - Sexual Assault of a Child in Substitute Care [948.085]
 - Any of the following violations on or after August 12, 1993 - December 31, 1999:
 - Sexual Assault [940.225] (1st through 4th Degree)
 - 1st or 2nd Degree Sexual Assault of a Child [948.02(1) or (2)]
 - Repeated Sexual Assault of the Same Child [948.025]

- **Required by a court** to provide a biological specimen for:
 - s. [51.20\(13\)\(cr\)](#), [938.21\(1m\)](#), [938.30\(2m\)](#), [938.34\(15\)](#), [970.02\(8\)](#), [971.17\(1m\)\(a\)](#), [973.047](#), or [980.063](#) on or after April 1, 2015
 - **Juvenile adjudicated delinquent** on or after August 12, 1993 - March 31, 2015 of any violation under:
 - 940 (Crimes against life and bodily security)
 - 944 (Crimes against sexual morality)
 - 948 (Crimes against children)
 - 943.01 to 943.15 (Crimes against property, includes Criminal Damage to Property, Arson, Burglary, and Criminal Trespass)

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“Violent crimes” as defined in s. [165.84\(7\)\(ab\)](#):

940.01* – first-degree intentional homicide
940.02[#] – first-degree reckless homicide
940.03[#] – felony murder
940.05* – second-degree intentional homicide
940.06[#] – second-degree reckless homicide
940.07[#] – homicide resulting from negligent control of vicious animal
940.08[#] – homicide by negligent handling of a dangerous weapon, explosives or fire
940.09(1)[#] – homicide by intoxicated use of vehicle or firearm
940.10[#] – homicide by negligent operation of vehicle
940.19(2)[#] – battery causing substantial bodily harm with intent to cause harm
940.19(4)[#] – battery causing great bodily harm with intent to cause harm
940.19(5)[#] – battery causing great bodily harm with intent to cause great harm
940.19(6)[#] – battery causing bodily harm
940.195(2)[#] – battery to unborn child causing substantial bodily harm with intent to cause harm
940.195(4)[#] – battery to unborn child causing great bodily harm with intent to cause harm
940.195(5)[#] – battery to unborn child causing great bodily harm with intent to cause great harm
940.195(6)[#] – battery to unborn child causing harm
940.20[#] – battery by prisoners, to certain public employees

940.201(2)[#] – battery or threat of battery to witness or family of witness
940.203(2)[#] – battery or threat of battery to person or family of any judge, prosecutor, or law enforcement officer
940.205(2)[#] – battery or threat of battery to DOR employee or family of DOR employee
940.207(2)[#] – battery or threat of battery to DSPS or DWD employee or family of DSPS or DWD employee
940.208[#] – battery to certain municipal employees
940.21* – mayhem
940.225(1)* – first-degree sexual assault
940.225(2)* – second-degree sexual assault
940.225(3)* – third-degree sexual assault
940.23[#] – reckless injury
940.235* – strangulation and suffocation
940.30* – false imprisonment
940.302(2)* – human trafficking
940.305* – taking hostages
940.31* – kidnapping
940.32(2)* – stalking
940.32(2e)* – stalking
940.32(2m)* – stalking
940.43* – intimidation of witness
940.45* – intimidation of victim
941.20(2)* – endanger safety by use of a dangerous weapon
941.20(3)* – endanger safety by discharge of firearm from a vehicle
941.21* – disarming a peace officer
941.30[#] – recklessly endangering safety
941.327* – tampering with household products

943.02* – arson of buildings
943.06* – Molotov cocktail
943.10* – burglary
943.23(1g)* – operating vehicle without consent with dangerous weapon
943.23(2)* – operation vehicle without consent
943.32* – robbery
948.02(1)* – first degree sexual assault of a child
948.02(2)* – second degree sexual assault of a child
948.025* – repeated acts of sexual assault of same child
948.03(2)(a)* – physical abuse of a child: intentionally cause great bodily harm to child
948.03(2)(c)* – physical abuse of a child: intentionally cause bodily harm by conduct with probability to cause harm
948.03(3)[#] – physical abuse of a child: recklessly cause bodily harm to child
948.03(5)(a)1-4^{#*} - repeated acts of physical abuse of the same child causing great bodily harm to the child
948.05* – sexual exploitation of child
948.051* – trafficking a child
948.055* – cause child to view or listen to sexual activity
948.07* – child enticement
948.08* – soliciting child for prostitution
948.085* – sexual assault of child in substitute care
948.095* – sexual assault of child by person who works with children
948.30(2)* – abduction of another’s child

A felony if a penalty enhancer specified in s. [939.621](#) could be imposed.

- a felony violation of this offense

* - or solicitation, conspiracy, or attempt, under s. [939.30](#), [939.31](#), or [939.32](#), to commit this offense