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# APPLICANT BACKGROUND CHECKS

## WISCONSIN COURT SYSTEM

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### POLICY

The court system has a responsibility to comply with the provisions of the Wisconsin Fair Employment Act (ss. [111.31-111.395](#), Wis. Stats.) throughout the hiring process, including the consideration of an applicant's criminal history. Arrest and/or conviction records will only be considered if the circumstances of the charge(s) substantially relate to the duties and responsibilities of a particular job. Arrest records will only be considered in relation to pending charges.

The Human Resources Office performs background checks on all final candidates for job classifications. For final candidates a justice or judge may review any pending charges or convictions, provided the judge or justice signs the background check confidentiality agreement.

The Director may require background checks on candidates for other positions designated as security-sensitive whose duties require, provide for, or encompass the potential to incur human, financial or property loss or harm to the court system.

### JOB POSTING

The job posting notice will clearly state when a background check is a required part of the employment process for a position.

The determination to conduct additional background checks will be made prior to posting a job announcement.

#### STATEMENT IN JOB ANNOUNCEMENTS

1. All announcements will include the following statement: "Employment will require a criminal background check."



2. All announcements requiring driving: “Must meet the minimum standards for driving a state vehicle.”
3. All announcements requiring a fingerprint background check: “Employment will require a criminal background check which may include FBI fingerprinting.”
4. All announcements requiring a credit check: “Employment will require a credit check.” Only position with fiduciary responsibility will require a credit check.

## OFFERS OF EMPLOYMENT

Employment offers contingent upon a successful outcome of a background check may be made. Whenever possible, the Human Resources Office will complete background checks before an offer of employment is extended. In most cases, only the applicant being offered the position will be checked; however, there may be circumstances where more than one applicant is checked.

If needed, the Director may allow a new employee to begin employment while a background check is in process. If an appointment is made contingent upon completion of a background check, the Director's appointment letter will contain the following statement: “This appointment is conditional pending the results of a background check. The appointment will be withdrawn or terminated if the results of the background check are unacceptable.”

## CONSENT FORM

Before conducting a background check, the candidate will be required to sign a criminal background check consent form. The consent form specifically asks a candidate to self-disclose if s/he has ever been convicted of a crime or is currently facing criminal charges. Individuals declining to sign the form will no longer be considered a candidate for the vacancy. A candidate will submit the consent form to the Human Resources Office where it will be maintained in confidence to the extent permitted by applicable state laws. If a credit check is required, applicants must also sign the Fair Credit Reporting Act (FCRA) authorization form, including the FCRA rights information sheet.



## TYPES OF BACKGROUND CHECKS

Background checks will be performed by the Human Resources Office. Results of background checks are kept confidential except on a need-to-know basis or as required by law. Background checks will include checks in all jurisdictions deemed prudent and may include the following:

- State of Wisconsin Criminal Background Check through the Department of Justice

- Wisconsin Sex Offender Registry

- Selective Service

- Other applicable on-line databases

- Background checks performed by private commercial background check vendors

- Eligibility to work in the United States (E-verify)

- Driving history

- Professional license and credential history and status

- Credit report

Applicants who have not lived in the Wisconsin for the previous five years will be required to submit paperwork for an Out of State background check.

## INFORMATION OBTAINED FROM BACKGROUND CHECKS

All documentation related to an applicant's background check will be kept in a confidential, sealed file in the Human Resources Office. Required documentation includes:

- Consent form(s)

- Information collected from the background check

- Analysis and decision whether criminal activity (if any) was substantially related to position

- Correspondence related to the background check

Individual(s) who conduct background checks or view the results must sign the Wisconsin Court System Background Check Confidentiality Agreement.



Information obtained through the background check process will be available to the Director, Human Resources staff and the hiring manager. Information about an applicant obtained through this process will be evaluated on a case-by-case basis and will be interpreted in a manner consistent with the requirements of the Wisconsin Fair Employment Act and other applicable laws. The background check information will not be part of the employee's personnel file.

## RECORDS RETENTION

If a background check was viewed or conducted it will be retained for 6.5 years from the hiring transaction for which the background check was used. If a background check was not viewed or conducted it will be confidentially shredded. Sec. 893.53, Wis. Stats., provides a three (3) year limitation for actions for injury to character or other rights.

## CURRENT EMPLOYEES

A current employee who transfers to a position that has been designated security sensitive who has not previously been subject to a background check will be required to successfully complete the background check process. The background check process will be completed prior to the employee giving notice of transfer from his/her current position.

## REHIRED AND REINSTATING EMPLOYEES

An employee rehired by the court system with the court system will be subject to a background check if the position is determined to be security sensitive or is included in the list of job titles requiring background checks. The same standards of evaluation used in considering information obtained in background checks for new hires will be applied in considering the rehire of a former employee.

## LIMITED TERM AND PROJECT APPOINTMENTS

Background checks will be performed on candidates for limited term or project positions if the position is substantially similar to a permanent position in the unclassified service that requires use of the background check process or if the position is determined to be security sensitive.