

QUICK REFERENCE CHART-IMMIGRATION CONSEQUENCES OF SELECTED WISCONSIN CRIMINAL STATUTES

WISCONSIN CRIMINAL STATUTE	AGGRAVATED FELONY	CRIME INVOLVING MORAL TURPITUDE	OTHER DEPORTABLE INADMISSIBILITY GROUNDS	ADVICE
CHAPTER 940-CRIMES AGAINST LIFE AND BODILY SECURITY				
First-Degree Intentional Homicide 940.01  Second-Degree Intentional Homicide 940.05	Yes, Aggravated Felony	Yes, CIMT	Crime of Violence is Domestic Violence if offense committed against DV type victim	Plead to Negligent Homicide, which is probably not an AF
First-Degree Reckless Homicide 940.02  Second-Degree Reckless Homicide 940.06	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year) Also, Aggravated Felony as a Drug Trafficking offense see 940.02(2)(a)	Yes, CIMT	Crime of Violence is Domestic Violence if offense committed against DV type victim	Plead to Negligent Homicide, which is probably not AF
Felony Murder 940.03	Yes, Aggravated Felony (if underlying offense is COV and term of imprisonment of at least one year)	Probably yes	Crime of Violence is Domestic Violence if offense committed against DV type victim	Avoid COV and sentence of one year or more
Homicide-Negligent Handling-Dangerous Weapon, Explosive or Fire 940.08	Probably not	Probably not	A conviction relating to a firearm is a basis for deportability	Keep record of conviction vague regarding use of firearm
Homicide-Intoxicated Use of Vehicle or Firearm 940.09	Yes, Aggravated Felony (Driving while Intoxicated might be Crime of Violence if sentence of one year or more is imposed)	Yes, CIMT (particularly if record of conviction establishes defendant knew he was suspended for an OWI offense)	Conviction relating to firearms/controlled substances constitute grounds of deportability	Keep record of conviction vague regarding use of firearm or controlled substance
Misdemeanor Battery 940.19(1)	No	No	Crime of Violence is Domestic Violence if offense committed against DV type victim, but simple battery may not be COV absent information in record of conviction	Plead to offense against victim that does not fall within covered relationship if victim is covered, do not identify relationship in record of conviction

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Substantial; Aggravated Battery 940.19(2)-(6)	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	No	Crime of Violence is Domestic Violence if offense committed against DV type victim	Avoid one year sentence to prevent AF designation. Keep record of conviction vague if DV case. Also if victim is covered do not identify relationship in record of conviction
Battery Special Circumstances 940.20	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Generally not CIMT, but with injury to peace officer, firefighter, probation officer, public official, juror may be	No	Keep record of conviction vague regarding whether defendant knew victim had protected status
Battery or Threat to Witness 940.201	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes	Crime of Violence is Domestic Violence if offense committed against DV type victim	Avoid AF designation by pleading to Battery. Avoid record of conviction alleging threats to use force. See above for DV victim
Sexual Assault 940.225	Generally this is an Aggravated Felony regardless of whether the offense is designated a COV and the sentence imposed is a year + 3rd Degree Sexual Assault is AF if COV and sentence of one year or more. 4th Degree Sexual Assault is a misdemeanor and generally not AF unless victim is 17 and under (AF if sexual abuse of minor even if the offense is considered a misdemeanor)	Yes, CIMT	Crime of Violence is Domestic Violence if offense committed against DV type victim	Avoid AF designation by pleading to 3rd or 4th Degree Sexual Assault. If a plea to 3rd Degree Sexual Assault avoid eliciting force or use of force. Force is an essential element in federal Rape statute. If plea to 4th Degree avoid eliciting any facts regarding the age of the victim if victim is a minor. 3rd Degree is a felony, avoid imposition of 1 year or more sentence by stacking counts consecutively <one year

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Reckless Injury 940.23	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes, CIMT if defendant showed utter disregard for human life	Crime of Violence is Domestic Violence if offense committed against DV type victim	Plead to misdemeanor battery and avoid sentence of one year or more
Injury by Negligent Handling of Dangerous Weapon, or Fire 940.24	No	No		
Injury by Intoxicated Use of Motor Vehicle 940.25	Yes, Aggravated Felony (Driving while Intoxicated might be Crime of Violence if sentence of one year or more is imposed)	Yes, CIMT (particularly if record of conviction establishes defendant knew he was suspended for an OWI offense)	Conviction relating to firearms/controlled substances constitute grounds of deportability	Keep record of conviction vague regarding use of firearm or controlled substance
Abuse of Vulnerable Adults 940.285	Probably not	Probably not unless defendant intended to cause harm		Keep record of conviction vague regarding intent to avoid CIMT designation
False Imprisonment 940.30	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes, CIMT	Crime of Violence is Domestic Violence if offense committed against DV type victim	Keep record of conviction vague regarding use of violence to avoid COV designation, also avoid AF by avoiding 1 year sentence. Keep record of conviction vague if DV case Also if victim is covered do not identify relationship in record of conviction
Taking Hostages 940.305	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes, CIMT	Crime of Violence is Domestic Violence if offense committed against DV type victim	See above

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Stalking 940.32	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes, CIMT	Crime of Violence is Domestic Violence if offense committed against DV type victim. A conviction would probably trigger deportation as a "crime of stalking" independent of other factors.	Avoid AF by avoiding sentence of one year or more. Keep record of conviction vague regarding threat or use of violence
Duty to Aid Victim or Report Crime 940.31	No	No		
Misdemeanor Intimidation of Victims 940.44	No	Probably CIMT		Avoid CIMT by keeping record of conviction vague regarding allegations of knowledge and maliciousness
Felony Intimidation of Victims 940.45	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes, CIMT	Crime of Violence is Domestic Violence if offense committed against DV type victim	Avoid AF by avoiding sentence of one year or more. Keep record of conviction vague regarding threat or use of violence. Plead to offense against victim that does not fall within covered relationship. If victim is covered, do not identify relationship in record of conviction
Attempt Prosecuted as Completed Crime 940.46 (Attempt to commit any act prohibited under 940.42 to 940.45)	An attempt to commit an AF would also be deemed an AF	An attempt to commit a CIMT probably be considered a CIMT		

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CHAPTER 941-CRIMES PUBLIC HEALTH AND SAFETY				
Negligent Operation of Vehicle 941.01	No	No	None	
Negligent Handling of Burning Material 941.1	No	No	None	This a regulatory offense and the considerably less aggravating relative of Arson (which, is an AF COV when a sentence of one year or more is imposed)
Unsafe Burning of Building 941.11	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Probably not CIMT		See above
Endangering Safety by Use of Dangerous Weapon 941.20	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes, CIMT	Conviction relating to firearms/controlled substances constitute grounds of deportability Also Crime of Violence is Domestic Violence if offense committed against DV type victim	Avoid conviction defining the operation of a firearm. The best option is a plea to the misdemeanor charge of "negligent operation or handling of a dangerous weapons." Plead to offense against victim that doesn't fall w/i covered relationship. If victim is covered, do not identify relationship in record of conviction
Disarming a Peace Officer 941.21	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Probably	A conviction relating to a firearm is a basis for deportability	Keep record of conviction vague regarding use of firearm
Carrying Concealed Weapon 941.23	No	No	A conviction relating to a firearm is a basis for deportability	Keep record of conviction vague regarding use or possession of firearm

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Carrying Firearm in Public Building 941.235	No	No	A conviction relating to a firearm is a basis for deportability	Plea to CCW Keep record of conviction vague regarding use or possession of firearm
Carrying Handgun Where Alcohol Beverages May be Sold 941.237	No	No	A conviction relating to a firearm is a basis for deportability	Plea to CCW Keep record of conviction vague regarding use or possession of firearm
Possession of Switchblade Knife 941.24	No	No		
Machine Guns and Other Weapons (fully automatic) 941.26	Yes, AF regardless of sentence. Offense might be deemed a "Firearm Offense" Aggravated felony if record of conviction establish an offense akin to one described in 18 U.S.C. 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r); 18 U.S.C. 924 (b) or (h); or 26 U.S.C. 5861	Probably Not	A conviction relating to a firearm is a basis for deportability	Keep record of conviction vague regarding use possession, trafficking in firearms
Possession of Short-Barreled Shotgun or Rifle 941.28	Offense might be deemed a "Firearm Offense" Aggravated felony if record of conviction establish an offense akin to one described in 18 U.S.C. 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r); 18 U.S.C. 924 (b) or (h); or 26 U.S.C. 5861	Probably not	A conviction relating to a firearm is a basis for deportability	Plea to CCW. Keep record of conviction vague regarding use, possession or trafficking of firearms

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Possession of Firearm 941.29	Yes, Aggravated Felony regardless of sentence.	No	Deportable under Firearms Ground	
Possession of Body Armor 941.291	No	No		
Possession of Electric Weapon 941.295	No	No		
Firearm Silencer 941.298	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	No	A conviction relating to a firearm is a basis for deportability	
Recklessly Endangering Safety 941.30	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Probably	Crime of Violence is Domestic Violence if offense committed against DV type victim	Keep record of conviction vague regarding use of violence to avoid COV designation, also avoid AF by avoiding 1 year sentence. Keep record of conviction vague if DV case. Also if victim is covered do not identify relationship in record of conviction
Possession of Explosives 941.31	Yes, Aggravated Felony regardless of sentence.	No		
Administering Dangerous or Stupefying Drug 941.32	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes	Conviction relating to controlled substances constitutes grounds of deportability	
Possession, Distribution or Delivery of Nitrous Oxide 941.315	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	No		

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Placing Foreign Objects in Edibles 941.325	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes	None	Keep record of conviction vague regarding use of violence to avoid COV designation, also avoid AF by avoiding 1 year sentence. Keep record of conviction vague if DV case. Also if victim is covered do not identify relationship in record of conviction
Tampering With Household Products 941.327	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes	None	See advice above
Obstructing Emergency or Rescue Personnel 941.37	Probably not	No	None	See advice above
Throwing or Discharging Bodily Fluids at Public Safety Workers 941.375	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes, if bodily harm is caused or threatened	None	See advice above
Criminal Gang Member Solicitation and Contact 941.38	Probably. Assume that if the principal offense is an AF, such sexual assault of child, a conviction under this statute is an AF	Yes	Conviction relating to controlled substances constitutes grounds of deportability.	See advice above

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CHAPTER 943-CRIMES AGAINST PROPERTY				
Criminal Damage to Property 943.01	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Probably	Crime of Violence is Domestic Violence if offense committed against DV type victim	Keep record of conviction vague regarding use of violence to avoid COV designation, also avoid AF by avoiding 1 year sentence. Keep record of conviction vague if DV case. Also if victim is covered do not identify relationship in record of conviction
Damage or Threat to Property of Witness 943.011	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Probably	Crime of Violence is Domestic Violence if offense committed against DV type victim	Keep record of conviction vague regarding use of violence to avoid COV designation, also avoid AF by avoiding 1 year sentence. Keep record of conviction vague if DV case. Also if victim is covered do not identify relationship in record of conviction
Criminal Damage to or Graffiti on Religious and Other Property 943.012	No	No		
Criminal Damage; Threat; Property of Judge 943.013	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes		Avoid AF designation by pleading to Misd. Criminal Damage, or by preventing a prison sentence

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Graffiti 943.017	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes	Crime of Violence is Domestic Violence if offense committed against DV type victim	Plead to the misdemeanor charge Keep record of conviction vague regarding use of violence to avoid COV designation, also avoid AF by avoiding 1 year sentence. Keep record of conviction vague if DV case. Also if victim is covered do not identify relationship in record of conviction
Arson of Buildings; Damage of Property by Explosives	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes	Crime of Violence is Domestic Violence if offense committed against DV type victim	Plead to the misdemeanor charge of Criminal Damage to Property. Keep record of conviction vague regarding use of violence to avoid COV designation, also avoid AF by avoiding 1 year sentence. Keep record of conviction vague if DV case. Also if victim is covered do not identify relationship in record of conviction
Arson of Property Other than a Building 943.03	Yes, Aggravated Felony (if COV and term of imprisonment of at least one year)	Yes	Crime of Violence is Domestic Violence if offense committed against DV type victim	Plead to the misdemeanor charge of Criminal Damage to Property. See advice above.