

## **Treatment Alternative and Diversion (TAD) Program Violent Offender Definition**

The purpose of this document is to provide additional guidance to the TAD sites regarding the application of the violent offender restriction based on the applicable section from Wisc. Stat. 165.95.

[165.95](#) Alternatives to incarceration; grant program.

(1) In this section, "violent offender" means a person to whom one of the following applies:

- (a) The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm.
- (b) The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.

### **Violent Offender Considerations:**

1. The statute would typically apply to felony convictions for violent crimes such as those defined by Wisc. Stat. [165.84\(7\)\(ab\)](#) or Wisc. Stat. [941.291\(1\)\(b\)](#), depending on the specifics of the involved offense(s). These statutes are guidelines only and are not all-inclusive. Sites should ensure that participants, regardless of offense type, meet the criteria of the statute.
2. Convictions for misdemeanor offenses (such as misdemeanor battery) may not be an automatic disqualifier, depending on the circumstances of the offense.
3. No prior convictions for violent crimes. For convictions, there is no time limit in the statute for prior convictions. The statute applies regardless of how long ago the conviction occurred.
4. For convictions, the statute does not apply to charges that were reduced or modified to a misdemeanor or to a felony if the offense did not involve a dangerous weapon or the use or attempted use of force. For example if the original charge was battery, but the charge was modified to disorderly conduct prior to conviction, the county may determine that the participant is eligible for program participation depending on the specifics of the offense.
5. For current charges at the time an individual is referred to the program, the individual would typically be disqualified if a dangerous weapon was involved or force was used against another person, regardless of whether the charge is a misdemeanor or felony, even if the diversion program would allow for dismissal of charges after the program is successfully completed.
6. Ultimately, the decision to admit an individual to the program is up to each individual county or tribe, but should be in line with the language of the statute and guidance described above.
7. Questions on specific situations can be directed to the TAD contacts at the Department of Justice for guidance.