



CLARIFYING DIFFERENT TYPES OF  
CRIMINAL RECORDS: TOP 10 LIST

# Should You Hire Applicants With DWIs?

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SERIES 1 OF 10

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## Clarifying Different Types of Criminal Records: Top 10 List

Let's explore the 10 most common convictions found on criminal background checks in the U.S. and get a better understanding of these convictions. While these are the top overall in the U.S., they differ from state to state. The differences and subcategories of each recidivism rates and typical job functions might need to be considered when one of these convictions turns up on a background check.

These are the top 10 convictions that you will most often see on background checks. You may have guessed what would come in at number one: DWI convictions. DWI convictions are becoming increasingly common, but making an objective hiring decision isn't always black and white. Keep reading to learn more on hiring decisions and DWIs.



key facts :

1. While these are top overall in the U.S., they differ from state to state.
2. DWI convictions are becoming increasingly common, but making an objective hiring decision isn't always black and white.

1

**Driving While Intoxicated**

2

**Driving While License Suspended**

3

**Possession of Marijuana**

4

**Possession of a Controlled Substance**

5

**Assault Family Member**

6

**Theft by Check**

7

**Theft**

8

**Evading Arrest/Detention**

9

**Assault Causing Bodily Injury**

10

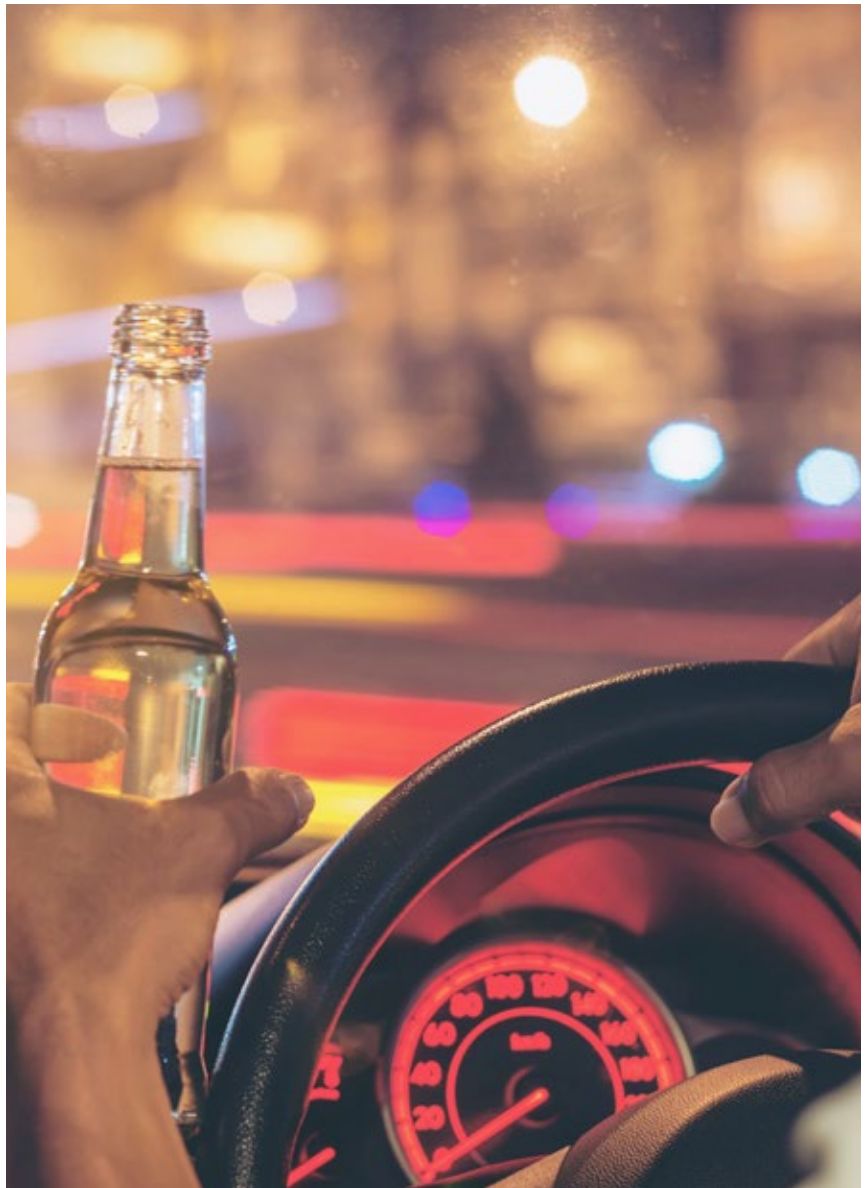
**Aggravated Assault**

## Making an Objective Hiring Decision: Applicants with Driving While Intoxicated Convictions

Should you hire an employee with a background that includes a DWI conviction? Statistics indicate that as many as one in three people are touched by an injury involving an alcohol-related auto accident. On the other side of the issue, there is a large percentage of people who have, at some point in time, had that second glass of wine with dinner and proceeded to drive home. The hiring decision is always yours to make as a manager, but there are a few things to consider that can help you to make an objective and strategic move, as opposed to a selection that is based on a personal or emotional bias.

Each year in the U.S., one percent of all licensed drivers are arrested for DWI—more people than for any other crime. This is consistent with what we see at KRESS when we run background checks for employers. What does this mean to you as a hiring manager? The question boils back down to whether you should hire an employee with this background or not.

While we do believe past behavior is a good predictor of future performance, the answer as usual, is complicated. The EEOC recommends employers always consider the following factors when creating his/her HR policy in regards to using this type of information: the circumstances of the conviction, essential job functions of the individual's potential position, the time that has passed since the conviction; and whether or not the subject has held a similar position or jobs functions successfully in recent years. Additionally, you should also consider the recidivism rate for the type of offense, and the liability therein.



key fact :

Each year in the U.S., one percent of all licensed drivers are arrested for DWI—more people than for any other crime.

## Circumstances May Matter to Some Hiring Managers

The circumstance of the conviction is one very important factor to take a look at when making a hiring decision. Information regarding the actual circumstances that lead to the conviction will generally be uncovered through direct interview questions. Let's take a look at two examples:

Two people each have the same conviction for a DWI in Texas; it is the first offense for both of them. Both of their convictions fall under the category of a Class B Misdemeanor. They each recounted the following events when explaining their circumstances in their application or during the interview.

Jill recounted the circumstances regarding her conviction to you. She has never been in any other trouble with the law. She was at a restaurant six months ago and had been served a few glasses of wine. She decided she would arrange a ride home, since she felt she might be impaired. When her ride arrived, she was instructed to move her car into a parking space on the side of the building in order to leave it there overnight. A policeman overheard this conversation and waited for her in the street out front. When she backed out of the parking lot to move her car, she was arrested and cited for DWI. The officer testified at her hearing that she was moving her car and had arranged a ride home. She did not seem impaired, but she registered a 0.08 for breath alcohol level.

Jack recounted the following circumstances regarding his conviction to you. He has never been in any other trouble with the law. He had over-celebrated his birthday two years ago, and was driving home. He fell asleep behind the wheel and woke up as he was running a red light. He narrowly missed, causing a major accident and was pulled over by the county sheriff's department. He called an attorney, who advised Jack not to participate in field sobriety tests or a breathalyzer analysis.

Based on your own personal experience, it may be difficult to decide whether to hire one, both, or neither of these applicant. Most hiring managers are usually guided by policy when excluding applicants or hiring employees, but in many cases these same hiring managers are charged with creating or updating the policy. The two cases above illustrate how the exact same conviction can actually be the result of very different behavior on the part of the individual. Likewise, intoxication manslaughter is a completely different offense than refusing a breathalyzer test, but they are both ultimately DWI convictions. Let's take a look at what this applicant will potentially do for your company if you decide to hire them.



### key facts :

1. For first-time offenders, there is a 35-percent chance that the person will be convicted again for DWI at some point in their life.



2. Statistics indicate that as many as one in three people are touched by an injury involving an alcohol-related auto accident.



## Their Job Duties Matter in Decision-Making

One of the main criteria you should consider is the type of tasks that the employee will be doing while performing the essential daily functions of his or her job, as well as the individual qualities that make different employees successful in any given role. If the position you are screening for is a driver, then it is probably an easy decision to make. However, when making hiring decisions, one should also consider other positions that will have the employee driving to and from client sites, transporting your customers or other staff members, and/or traveling to other markets in a regional territory. Other factors to consider when making a hiring decision are your company's auto-insurance rates, as well your own liability and your company's liability when and if you hire someone with this particular background. If the employee is not behind the wheel of a company vehicle and/or is not driving his or her own vehicle in order to complete work-related tasks, then there is no liability. If driving is an essential part of this person's job, then one should take a serious look at the applicant's driving record as a matter of due diligence. One final factor to consider while making a hiring decision is the rate of recidivism for DWI offenders.

Unfortunately, the rates for recidivism for persons convicted of this offense are unusually high. When one begins researching and compiling data, the penalty classifications for first, second, and third-time offenders stand out right away. Recidivism data varies by state, and while there are many factors affecting recidivism rates for DWI convictions, the most common factor in determining whether a person will be convicted of DWI more than once seems to be court directed education and/or counseling. For first-time offenders, there is a 35-percent chance that the person will be convicted again for DWI at some point in their life, but the recidivism rate drops down to five percent when the person participates in a court-directed educational or counseling program.

### PROFESSIONAL

- Accounting/Finance
- Retail Management
- Production/Manufacturing Management
- Inside Sales
- Legal (Attorney, Paralegal, etc.)
- Healthcare
- IT

### CLERICAL

- Receptionist
- Bookkeeper
- Dispatcher
- Librarian
- Copy Writer/Editor
- Call Center
- Bank Teller
- Help Desk

### SKILLED TRADES

- Welder
- Assembly/Production
- Sous Chef/Grill Cook
- Machinist
- AutoCAD Draftsman
- Roughneck/Offshore
- Painter/Sandblaster

### ENTRY LEVEL

- Hospitality
- Cashier
- Retail Associate
- Restaurant
- Customer Service
- Housekeeping/Janitor/Maintenance



key fact :

If driving is an essential part of this person's job, then one should take a serious look at the applicant's driving record as a matter of due diligence.



This partial list of suggested, excluded employment roles for persons convicted of DWI is by no means comprehensive. If you are looking for a particular skill set or profession that is not mentioned, it is not an indication that it was deliberately excluded:



One final factor to consider while making a hiring decision is the rate of recidivism for DWI offenders.

## HIRE WITH CAUTION

- Driver
- Chauffer
- Wrecker Driver
- Heavy Equipment Operator
- Outside/Regional Sales
- Food Delivery
- Regional Manager
- Field Service Technician
- EMS
- Policeman
- Fireman
- Plumber
- Census Taker
- Crew Leader: Construction/Moving/Landscaping

**For more information, contact us!**

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