
Wisconsin Legislative Council

ACT MEMO



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2019 Wisconsin Act 97
[2019 Senate Bill 163]

Battery to a Nurse or Health Care Worker

BACKGROUND

In general, a person commits the crime of battery if he or she causes bodily harm¹ to another person without the other person's consent. The crime of battery is a Class A misdemeanor.

A person commits substantial battery if he or she causes great bodily harm to another by an act done with intent to cause bodily harm to that person and aggravated battery if he or she causes great bodily harm² to another by an act done with intent to cause great bodily harm to that person. Felony penalties apply to the crime of substantial battery and aggravated battery.

Felony penalties also apply to battery committed under certain circumstances. One such circumstance is when a person commits battery to emergency department personnel. Under current law, it is a Class H felony for a person to intentionally cause bodily harm to an emergency department worker, emergency medical services practitioner, emergency medical responder, or ambulance driver who is acting in an official capacity and who the person knows or has reason to know is one of these emergency medical care providers, by an act done without the emergency medical provider's consent. An "emergency department worker" is either of the following:

- An employee of a hospital who works in an emergency department.
- A health care provider, whether or not employed by a hospital, as defined by statute, who works in an emergency department. For purposes of the crime of battery to an emergency medical care provider, a "health care provider" means "any person who is licensed, registered, permitted or certified by the Department of Health Services or the Department of Safety and Professional Services to provide health care services in the state."

The penalty for a Class A misdemeanor is a fine of up to \$10,000, imprisonment up to nine months, or both. The penalty for a Class H felony is a fine of up to \$10,000, imprisonment up to six years, or both.

2019 WISCONSIN ACT 97

2019 Wisconsin Act 97 provides felony penalties for intentionally causing bodily harm to a nurse or to an individual acting under the supervision of a nurse. Under the act, a person is guilty of a Class H felony if all of the following apply:

¹ Current law defines "bodily harm" to mean "physical pain or injury, illness, or any impairment of physical condition." [s. 939.22 (4), Stats.]

² Great bodily harm is defined, by statute, to mean "bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury." [s. 939.22 (14), Stats.]

- The person intentionally causes bodily harm to a nurse, or to an individual acting under the supervision of a nurse.
- The nurse, or person acting under the nurse's supervision, is acting in his or her professional capacity.
- The person knows or has reason to know that the victim is a nurse or an individual acting under the supervision of a nurse.
- The person injured did not consent to the act that caused bodily harm.

The act also expands the crime of battery to an emergency medical care provider, a Class H felony, to include intentionally causing bodily harm to any health care provider who works in a hospital. For these purposes hospital means:

[A]ny building structure, institution or place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment of and medical or surgical care for 3 or more nonrelated individuals hereinafter designated patients, suffering from illness, disease, injury or disability, whether physical or mental, and including pregnancy and regularly making available at least clinical laboratory services, and diagnostic X-ray services and treatment facilities for surgery, or obstetrical care, or other definitive medical treatment.

[s. 50.33 (2) (a), Stats.]

“Hospital” may include “related facilities such as outpatient facilities, nurses’, interns’ and residents’ quarters, training facilities and central service facilities operated in connection with hospitals.” Hospital also includes “special hospitals” or those hospital facilities that provide a limited type of medical or surgical care, including orthopedic hospitals, children’s hospitals, critical access hospitals, mental hospitals, psychiatric hospitals or maternity hospitals.” [s. 50.33 (2) (a) and (b), Stats.]

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