



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-5873/1  
EAW:skw

## 2021 BILL

1     **AN ACT** *to repeal* 940.20 (2r) and 940.20 (7); *to amend* 48.685 (2) (bb), 48.685  
2           (5) (bm) 4., 48.686 (1) (c) 9., 48.686 (1) (c) 12., 48.686 (2) (bb), 50.065 (2) (bb),  
3           103.88 (1) (d), 165.84 (7) (ab) 2., 301.048 (2) (bm) 1. a., 767.461 (4), 940.03,  
4           941.29 (1g) (a), 941.291 (1) (b), 949.03 (1) (b), 968.26 (1b) (a) 2. a., 969.08 (10)  
5           (b) and 973.123 (1); and *to create* 103.88 (1) (bd) and 940.204 of the statutes;  
6           **relating to:** battery or threat to a health care provider or staff member of a  
7           health care facility and providing a penalty.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, the crime of battery is defined as intentionally causing another person bodily harm and is a Class A misdemeanor. Under current law, if the battery is a special circumstance battery—for example, the battery is committed by a prisoner or against certain individuals because of the individual’s professional status—the penalty is increased. Under current law, it is a Class H felony to commit a battery against a nurse, an emergency medical care provider, or a person who is working in an emergency department.

Under this bill, it is a Class H felony to commit a battery against a person who is a health care provider, a staff member of a health care facility, or a family member of a health care provider or staff member, or to threaten such a person, if the battery or threat is in response to an action taken by the health care provider in his or her official capacity, or in response to something that happened at the health care facility.

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Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 48.685 (2) (bb) of the statutes is amended to read:

2           48.685 **(2)** (bb) If information obtained under par. (am), (b), or (ba) indicates a  
3 charge of a serious crime, but does not completely and clearly indicate the final  
4 disposition of the charge, the department, county department, child welfare agency,  
5 or entity shall make every reasonable effort to contact the clerk of courts to determine  
6 the final disposition of the charge. If a background information form under sub. (6)  
7 (a) or (am) indicates a charge or a conviction of a serious crime, but information  
8 obtained under par. (am), (b), or (ba) does not indicate such a charge or conviction,  
9 the department, county department, child welfare agency, or entity shall make every  
10 reasonable effort to contact the clerk of courts to obtain a copy of the criminal  
11 complaint and the final disposition of the complaint. If information obtained under  
12 par. (am), (b), or (ba), a background information form under sub. (6) (a) or (am), or  
13 any other information indicates a conviction of a violation of s. 940.19 (1), 940.195,  
14 940.20, 940.204, 941.30, 942.08, 947.01 (1), or 947.013 obtained not more than 5  
15 years before the date on which that information was obtained, the department,  
16 county department, child welfare agency, or entity shall make every reasonable  
17 effort to contact the clerk of courts to obtain a copy of the criminal complaint and  
18 judgment of conviction relating to that violation.

19           **SECTION 2.** 48.685 (5) (bm) 4. of the statutes is amended to read:

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1           48.685 (5) (bm) 4. A violation of s. 940.19 (3), 1999 stats., or of s. 125.075 (1),  
2           125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5),  
3           or (6), 940.20, 940.203, 940.204, 940.205, 940.207, or 940.25, a violation of s. 346.63  
4           (1), (2), (5), or (6) that is a felony under s. 346.65 (2) (am) 4. to 7., or (f), (2j) (d), or (3m),  
5           or an offense under ch. 961 that is a felony, if committed not more than 5 years before  
6           the date of the investigation under sub. (2) (am).

7           **SECTION 3.** 48.686 (1) (c) 9. of the statutes is amended to read:

8           48.686 (1) (c) 9. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b),  
9           125.66 (3), 125.68 (12), 940.09, 940.19 (2), (4), (5), or (6), 940.20, 940.203, 940.204,  
10          940.205, 940.207, 940.25, or 943.23 (1g), a violation of s. 346.63 (1), (2), (5), or (6) that  
11          is a felony under s. 346.65 (2) (am) 4., 5., 6., or 7. or (f), (2j) (d), or (3m), or an offense  
12          under ch. 961 that is a felony.

13          **SECTION 4.** 48.686 (1) (c) 12. of the statutes is amended to read:

14          48.686 (1) (c) 12. A violation of the laws of another state or United States  
15          jurisdiction that if committed in this state would constitute felony battery under s.  
16          940.19 (2), (4), (5), or (6) ~~or~~, 940.20, or 940.204, a felony offense of domestic abuse, as  
17          defined in s. 813.12 (1) (am), a sex offense or a violent crime under ch. 948, or a  
18          violation of s. 940.225 if the victim was a child.

19          **SECTION 5.** 48.686 (2) (bb) of the statutes is amended to read:

20          48.686 (2) (bb) If information obtained under par. (am) indicates a charge of a  
21          serious crime, but does not completely and clearly indicate the final disposition of the  
22          charge, the department shall make every reasonable effort to contact the clerk of  
23          courts to determine the final disposition of the charge. If information submitted to  
24          the department under par. (ag) indicates a charge or a conviction of a serious crime,  
25          but information obtained under par. (am) does not indicate such a charge or

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1 conviction, the department shall make every reasonable effort to contact the clerk  
2 of courts to obtain a copy of the criminal complaint and the final disposition of the  
3 complaint. If information obtained under par. (am), information submitted under  
4 par. (ag), or any other information indicates a conviction of a violation of s. 940.19 (1),  
5 940.195, 940.20, 940.204, 941.30, 942.08, 947.01 (1), or 947.013 obtained not more  
6 than 5 years before the date on which that information was obtained, the department  
7 shall make every reasonable effort to contact the clerk of courts to obtain a copy of  
8 the criminal complaint and judgment of conviction relating to that violation.

9 **SECTION 6.** 50.065 (2) (bb) of the statutes is amended to read:

10 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge  
11 of a serious crime, but does not completely and clearly indicate the final disposition  
12 of the charge, the department or entity shall make every reasonable effort to contact  
13 the clerk of courts to determine the final disposition of the charge. If a background  
14 information form under sub. (6) (a) or (am), or any disclosure made pursuant to a  
15 disclosure policy described under sub. (6) (am), indicates a charge or a conviction of  
16 a serious crime, but information obtained under par. (am) or (b) does not indicate  
17 such a charge or conviction, the department or entity shall make every reasonable  
18 effort to contact the clerk of courts to obtain a copy of the criminal complaint and the  
19 final disposition of the complaint. If information obtained under par. (am) or (b), a  
20 background information form under sub. (6) (a) or (am), any disclosure made  
21 pursuant to a disclosure policy described under sub. (6) (am), or any other  
22 information indicates a conviction of a violation of s. 940.19 (1), 940.195, 940.20,  
23 940.204, 941.30, 942.08, 947.01 (1), or 947.013 obtained not more than 5 years before  
24 the date on which that information was obtained, the department or entity shall

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1 make every reasonable effort to contact the clerk of courts to obtain a copy of the  
2 criminal complaint and judgment of conviction relating to that violation.

3 **SECTION 7.** 103.88 (1) (bd) of the statutes is created to read:

4 103.88 (1) (bd) "Emergency department" means a room or area in a hospital  
5 that is primarily used to provide emergency care, diagnosis, or radiological  
6 treatment.

7 **SECTION 8.** 103.88 (1) (d) of the statutes is amended to read:

8 103.88 (1) (d) "Employee" means an individual employed in this state by an  
9 employer, but does not include an individual employed to provide direct patient care  
10 at a hospital intensive care unit or emergency department, ~~as defined in s. 940.20 (7)~~  
11 ~~(a) 1g.~~

12 **SECTION 9.** 165.84 (7) (ab) 2. of the statutes is amended to read:

13 165.84 (7) (ab) 2. A felony violation of s. 940.02, 940.03, 940.06, 940.07, 940.08,  
14 940.09 (1c), 940.10, 940.19 (2), (4), (5), or (6), 940.195 (2), (4), (5), or (6), 940.20,  
15 940.201 (2), 940.203 (2), 940.204, 940.205 (2), 940.207 (2), 940.208, 940.23, 941.30,  
16 or 948.03 (3) or (5) (a) 4.

17 **SECTION 10.** 301.048 (2) (bm) 1. a. of the statutes, as affected by 2021 Wisconsin  
18 Act 76, is amended to read:

19 301.048 (2) (bm) 1. a. A crime specified in s. 940.19 (3), 1999 stats., s. 940.195  
20 (3), 1999 stats., s. 943.23 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01,  
21 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (4) or (5), 940.195 (4)  
22 or (5), 940.198 (2), 940.20, 940.201, 940.203, 940.204, 940.21, 940.225 (1) to (3),  
23 940.23, 940.235, 940.285 (2) (a) 1. or 2., 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2., or 3.,  
24 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20 (2) or (3), 941.26, 941.30, 941.327,  
25 943.01 (2) (c), 943.011, 943.013, 943.02, 943.04, 943.06, 943.10 (2), 943.23 (1g),

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1 943.30, 943.32, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05,  
2 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

3 **SECTION 11.** 767.461 (4) of the statutes, as created by 2021 Wisconsin Act 20,  
4 is amended to read:

5 767.461 (4) A term of incarceration, extended supervision, parole, or probation  
6 for a violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10,  
7 940.19, 940.195, 940.20, 940.201 (2), 940.203 (2), 940.204, 940.225 (1), (2), or (3),  
8 940.23, 940.235, 940.24 (1), 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2), (2e), or  
9 (2m), 940.42, 940.43, 940.44, 940.45, 941.20, 941.29, 941.30, 941.39, 943.011 (2),  
10 947.012, 947.013, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.055,  
11 948.06, 948.07, 948.08, 948.085, 948.095, 948.30, 948.55, or 951.02 or any felony to  
12 which the penalty enhancer under s. 939.621 could be imposed, for a violation of a  
13 72-hour no contact order under s. 968.075 (5), for a violation of a domestic abuse  
14 restraining order, child abuse restraining order, or harassment restraining order, or  
15 for a violation to which a penalty enhancer for the use of a dangerous weapon is  
16 applied.

17 **SECTION 12.** 940.03 of the statutes is amended to read:

18 **940.03 Felony murder.** Whoever causes the death of another human being  
19 while committing or attempting to commit a crime specified in s. 940.19, 940.195,  
20 940.20, 940.201, 940.203, 940.204, 940.225 (1) or (2) (a), 940.30, 940.31, 943.02,  
21 943.10 (2), 943.23 (1g), or 943.32 (2) may be imprisoned for not more than 15 years  
22 in excess of the maximum term of imprisonment provided by law for that crime or  
23 attempt.

24 **SECTION 13.** 940.20 (2r) of the statutes is repealed.

25 **SECTION 14.** 940.20 (7) of the statutes is repealed.

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1           **SECTION 15.** 940.204 of the statutes is created to read:

2           **940.204 Battery or threat to health care providers and staff. (1)** In this  
3 section:

4           (a) “Family member” means a parent, spouse, sibling, child, stepchild, or foster  
5 child.

6           (b) “Health care facility” means any of the following:

7           1. A hospital, as defined in s. 50.33 (2).

8           2. A clinic, which is a location with the primary purpose of providing outpatient  
9 diagnosis, treatment, or management of health conditions.

10          3. A pharmacy that is licensed under s. 450.06.

11          4. An adult day care center, as defined in s. 49.45 (47).

12          5. An adult family home, as defined in s. 50.01 (1).

13          6. A community-based residential facility, as defined in s. 50.01 (1g).

14          7. A residential care apartment complex, as defined in s. 50.01 (6d).

15          8. A nursing home, as defined in s. 50.01 (3).

16          9. A mental health or substance use disorder facility, which is a location that  
17 provides diagnosis, treatment, or management of mental health or substance use  
18 disorders.

19          10. An ambulatory surgical center, as defined in 42 CFR 416.2.

20          (c) “Health care provider” means any of the following:

21          1. A health care provider as defined in s. 146.81 (1) (a) to (hp), (q), (r), or (s).

22          2. A radiographer or limited X-ray machine operator licensed or permitted  
23 under ch. 462.

24          3. A driver of an ambulance, as defined in s. 256.01 (1t).

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1           **(2)** Whoever intentionally causes bodily harm or threatens to cause bodily  
2 harm to a person who works in a health care facility or to a family member of a person  
3 who works in a health care facility under all of the following circumstances is guilty  
4 of a Class H felony:

5           (a) At the time of the act or threat, the actor knows or should have known that  
6 the victim works or formerly worked in a health care facility or is a family member  
7 of the person who works or formerly worked in a health care facility.

8           (b) The act or threat is in response to an action occurring at the health care  
9 facility or an action by an official, employee, or agent of the health care facility acting  
10 in his or her official capacity.

11           (c) There is no consent by the person harmed or threatened.

12           **(3)** Whoever intentionally causes bodily harm or threatens to cause bodily  
13 harm to a health care provider or to a family member of a health care provider under  
14 all of the following circumstances is guilty of a Class H felony:

15           (a) At the time of the act or threat, the actor knows or should have known that  
16 the victim is a health care provider or is a family member of a health care provider.

17           (b) The act or threat is in response to an action by the health care provider  
18 acting in his or her capacity as a health care provider.

19           (c) There is no consent by the person harmed or threatened.

20           **(4)** The department of justice shall post on its website model language that  
21 health care facilities may post at its entrances alerting persons to the penalties under  
22 this section.

23           **SECTION 16.** 941.29 (1g) (a) of the statutes, as affected by 2021 Wisconsin Act  
24 76, is amended to read:



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1           941.29 (1g) (a) “Violent felony” means any felony under s. 943.23 (1m), 1999  
2 stats., or s. 943.23 (1r), 1999 stats., this section, or s. 940.01, 940.02, 940.03, 940.05,  
3 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.198, 940.20, 940.201, 940.203,  
4 940.204, 940.21, 940.225, 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30,  
5 940.302, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28,  
6 941.2905, 941.292, 941.30, 941.327 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2),  
7 943.23 (1g), 943.32, 943.87, 946.43, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05,  
8 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

9           **SECTION 17.** 941.291 (1) (b) of the statutes, as affected by 2021 Wisconsin Act  
10 76, is amended to read:

11           941.291 (1) (b) “Violent felony” means any felony, or the solicitation, conspiracy,  
12 or attempt to commit any felony, under s. 943.23 (1m) or (1r), 1999 stats., or s. 940.01,  
13 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.198,  
14 940.20, 940.201, 940.203, 940.204, 940.21, 940.225, 940.23, 940.285 (2), 940.29,  
15 940.295 (3), 940.30, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26,  
16 941.28, 941.29, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.04,  
17 943.06, 943.10 (2), 943.23 (1g), 943.32, 943.81, 943.82, 943.83, 943.85, 943.86,  
18 943.87, 943.88, 943.89, 943.90, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03,  
19 948.04, 948.05, 948.06, 948.07, 948.08, 948.085, or 948.30; or, if the victim is a  
20 financial institution, as defined in s. 943.80 (2), a felony, or the solicitation,  
21 conspiracy, or attempt to commit a felony under s. 943.84 (1) or (2).

22           **SECTION 18.** 949.03 (1) (b) of the statutes, as affected by 2021 Wisconsin Act 76,  
23 is amended to read:

24           949.03 (1) (b) The commission or the attempt to commit any crime specified in  
25 s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,

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1 940.09, 940.10, 940.19, 940.198, 940.20, 940.201, 940.204, 940.21, 940.22 (2),  
2 940.225, 940.23, 940.235, 940.24, 940.25, 940.285, 940.29, 940.30, 940.302 (2),  
3 940.305, 940.31, 940.32, 941.327, 942.09, 943.02, 943.03, 943.04, 943.10, 943.20,  
4 943.23 (1g), 943.32, 943.81, 943.86, 943.87, 948.02, 948.025, 948.03, 948.04, 948.05,  
5 948.051, 948.06, 948.07, 948.075, 948.08, 948.085, 948.09, 948.095, 948.20, 948.21  
6 (1), 948.30 or 948.51.

7 **SECTION 19.** 968.26 (1b) (a) 2. a. of the statutes, as affected by 2021 Wisconsin  
8 Act 76, is amended to read:

9 968.26 **(1b)** (a) 2. a. Section 940.04, 940.11, 940.19 (2), (4), (5), or (6), 940.195  
10 (2), (4), (5), or (6), 940.198 (2) (b) or (c) or (3), 940.20, 940.201, 940.203, 940.204,  
11 940.205, 940.207, 940.208, 940.22 (2), 940.225 (3), 940.29, 940.302 (2) (c), 940.32,  
12 941.32, 941.38 (2), 942.09 (2), 943.10, 943.205, 943.32 (1), 946.43, 946.44, 946.47,  
13 946.48, 948.02 (3), 948.03 (2) (b) or (c), (3), or (4), 948.04, 948.055, 948.095, 948.10  
14 (1) (a), 948.11, 948.13 (2) (a), 948.14, 948.20, 948.23 (1), (2), or (3) (c) 2. or 3., or 948.30  
15 (1).

16 **SECTION 20.** 969.08 (10) (b) of the statutes, as affected by 2021 Wisconsin Act  
17 76, is amended to read:

18 969.08 **(10)** (b) "Serious crime" means any crime specified in s. 943.23 (1m),  
19 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,  
20 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.198 (2) (a) or (c),  
21 940.20, 940.201, 940.203, 940.204, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25,  
22 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.302 (2), 940.31, 941.20 (2) or (3),  
23 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04,  
24 943.06, 943.10, 943.23 (1g), 943.30, 943.32, 943.81, 943.82, 943.83, 943.85, 943.86,  
25 943.87, 943.88, 943.89, 943.90, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2),

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1 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.085, or 948.30 or, if the  
2 victim is a financial institution, as defined in s. 943.80 (2), a crime under s. 943.84  
3 (1) or (2).

4 **SECTION 21.** 973.123 (1) of the statutes, as affected by 2021 Wisconsin Act 76,  
5 is amended to read:

6 973.123 (1) In this section, “violent felony” means any felony under s. 943.23  
7 (1m), 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 940.01, 940.02, 940.03, 940.05,  
8 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.198, 940.20, 940.201, 940.203,  
9 940.204, 940.21, 940.225, 940.23, 940.235, 940.285 (2), 940.29, 940.295 (3), 940.30,  
10 940.302, 940.305, 940.31, 940.43 (1) to (3), 940.45 (1) to (3), 941.20, 941.26, 941.28,  
11 941.29, 941.292, 941.30, 941.327 (2) (b) 3. or 4., 943.02, 943.04, 943.06, 943.10 (2),  
12 943.23 (1g), 943.32, 943.87, 946.43, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05,  
13 948.051, 948.06, 948.07, 948.08, 948.085, or 948.30.

14 (END)