



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Assembly Bill 7

Assembly Amendment 1

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BACKGROUND

Under current law, an individual may be convicted of either the crime charged or a lesser-included offense, but not both. A “lesser-included offense” is generally a crime that does not require proof of any fact in addition to those that must be proven for the charged crime; a crime that is a less serious or equally serious type of violation; or a crime that is the same as the charged crime except that it requires recklessness or negligence while the charged crime requires criminal intent.

A lesser-included offense for criminal homicide includes a crime that is a less serious type of criminal homicide than the one charged. For purposes of this provision, the Wisconsin Supreme Court held that a lesser-included offense for criminal homicide includes only crimes in the homicide statutes and does not include crimes relating to conduct that may or may not result in death. [*State v. Patterson*, 2010 WI 130.]

2015 ASSEMBLY BILL 7

Assembly Bill 7 codifies the court’s interpretation in *Patterson*. The bill provides that a lesser-included offense for criminal homicide includes a crime that **may be charged under subch. I of ch. 940, Stats.**, and that is a less serious type of criminal homicide than the one charged.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 restructures the statutory text and, instead, provides that a lesser-included offense for criminal homicide includes a crime that is a less serious type of criminal homicide **under subch. I of ch. 940, Stats.**, than the one charged.

BILL HISTORY

On April 2, 2015, Representative J. Ott offered Assembly Amendment 1 to Assembly Bill 7. On April 9, 2015, the Assembly Committee on Judiciary recommended adoption of Assembly Amendment 1 and passage of Assembly Bill 7, as amended, on votes of Ayes, 9; Noes, 0.

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