CHAPTER 947

CRIMES AGAINST PUBLIC PEACE, ORDER AND OTHER INTERESTS

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Cross−reference: See definitions in s. 939.22.

947.01 Disorderly conduct. (1) Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance is guilty of a Class B misdemeanor.

(2) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, a person is not in violation of, and may not be charged with a violation of, this section for loading a firearm, or for carrying or going armed with a firearm or a knife, without regard to whether the firearm is loaded or the firearm or the knife is concealed or openly carried.

History: 1977 c. 173; 1979 c. 131; 2011 a. 35; 2015 a. 149.

The defendant was properly convicted of disorderly conduct when he appeared on a stage wearing a minimum of clothing intending to and succeeding in causing a loud reaction in the audience. State v. Maker, 48 Wis. 2d 612, 180 N.W.2d 707 (1970).

An attorney was properly convicted under this section for refusing to leave a ward in a mental hospital until he had seen a client after having made statements in the presence of patients that caused some to become agitated. State v. Elson, 60 Wis. 2d 54, 208 N.W.2d 363 (1973).

It was not disorderly conduct for 4 people to enter an office with other members of the public for the purpose of protesting the draft and to refuse to leave on orders of the police when their conduct was not otherwise disturbing. State v. Werstein, 60 Wis. 2d 668, 211 N.W.2d 437 (1973).

This statute does not require a victim, but when the disorderly conduct is directed at a person, that person is the victim for the purpose of prosecuting the perpetrator for intimidating a victim under s. 940.44. State v. Vinje, 201 Wis. 2d 98, 548 N.W.2d 118 (Ct. App. 1996), 95−1484.

A "true threat" is a statement that a speaker would reasonably foresee that a listener would reasonably interpret as a serious expression of a purpose to inflict harm, as distinguished from hyperbole, jest, innocuous talk, expressions of political views, or other similarly protected speech. It is not necessary that the speaker have the ability to carry out the threat. State v. Perkins, 2001 WI 46, 243 Wis. 2d 141, 626 N.W.2d 762, 99−1924.

Purely written speech, even written speech that fails to cause an actual disturbance, can constitute disorderly conduct, but the state has the burden to prove that the speech is constitutionally unprotected "abusive" conduct. "Abusive" conduct is conduct that is injurious, improper, hurtful, offensive, or reproachful. "True threats" clearly fall within the scope of this definition. State v. Douglas D. 2001 WI 47, 243 Wis. 2d 204, 626 N.W.2d 725, 99−1767.

Application of the disorderly conduct statute to speech alone is permissible under appropriate circumstances. When speech is not an essential part of any exposition of ideas, when it is utterly devoid of social value, and when it can cause or provoke a disturbance, the disorderly conduct statute can be applicable. State v. A.S. 2001 WI 48, 243 Wis. 2d 173, 626 N.W.2d 712, 99−2317.

Disorderly conduct does not necessarily require disruptions that implicate the public directly. This section encompasses conduct that tends to cause a disturbance or disruption that is personal or private in nature, as long as there exists the real possibility that the disturbance or disruption will spill over and disrupt the peace, order, or safety of the surrounding community as well. Sending repeated, unwelcome, and anonymous mailings was "otherwise disorderly conduct." State v. Schwebke, 2002 WI 55, 253 Wis. 2d 1, 644 N.W.2d 666, 99−3204.

Defiance of a police officer's order to move is itself disorderly conduct if the order is lawful. Braun v. Baldwin, 346 F.3d 761 (2003).

947.011 Disrupting a funeral or memorial service. (1) In this section:

(a) "Facility" includes a cemetery in which a funeral or memorial service takes place.

(b) "Funeral or memorial service" includes a wake or a burial, as defined in s. 157.061 (1), but does not include a service that is not intended to honor or commemorate one or more specific decedents.

(2) (a) No person may do any of the following during a funeral or memorial service, during the 60 minutes immediately preceding the scheduled starting time of a funeral or memorial service if a starting time has been scheduled, or during the 60 minutes immediately following a funeral or memorial service:

1. Engage in conduct that is prohibited under s. 947.01 (1) within 500 feet of any entrance to a facility being used for the service with the intent to disrupt the service.

2. Intentionally block access to a facility being used for the service.

(b) No person, with the intent to disrupt a funeral procession, may impede vehicles that he or she knows are part of the procession.

(c) No person may do any of the following during a funeral or memorial service, during the 60 minutes immediately preceding the scheduled starting time of a funeral or memorial service if a starting time has been scheduled, or during the 60 minutes immediately following a funeral or memorial service:

1. Engage in conduct that is prohibited under s. 947.01 (1) within 500 feet of any entrance to a facility being used for the service.

2. Block access to a facility being used for the service.

(d) No person may impede vehicles that are part of a funeral procession if the person's conduct violates s. 947.01 (1).

(3) (a) Except as provided in par. (b), any person who violates this section is guilty of a Class A misdemeanor.

(b) Any person who violates sub. (2) (a) or (b) after having been convicted of a violation of this section is guilty of a Class I felony.

History: 2005 a. 114; 2011 a. 35.

947.012 Unlawful use of telephone. (1) Whoever does any of the following is guilty of a Class B misdemeanor:

(a) With intent to frighten, intimidate, threaten, abuse or harass, makes a telephone call and threatens to inflict injury or physical harm to any person or the property of any person.

(b) With intent to frighten, intimidate, threaten or abuse, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(c) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse or threaten any person at the called number.

(2) Whoever does any of the following is subject to a Class B forfeiture:

(a) With intent to harass or offend, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(b) Makes or causes the telephone of another repeatedly to ring, with intent to harass any person at the called number.

(c) Makes repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.

(d) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to harass any person at the called number.

(e) Knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section.

History: 1979 c. 131; 1991 a. 39.

947.0125 Unlawful use of computerized communication systems. (1) In this section, "message" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, or any transfer of a computer program, as defined in s. 943.70 (1) (c).

(2) Whoever does any of the following is guilty of a Class B misdemeanor:

(a) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message to the person on an electronic mail or other computerized communication system and in that message threatens to inflict injury or physical harm to any person or the property of any person.

(b) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message threatens to inflict injury or physical harm to any person or the property of any person.

(c) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(d) With intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(e) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(3) Whoever does any of the following is subject to a Class B forfeiture:

(a) With intent to harass, annoy or offend another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(b) With intent to harass, annoy or offend another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(c) With intent solely to harass another person, sends repeated messages to the person on an electronic mail or other computerized communication system.

(d) With intent solely to harass another person, sends repeated messages on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the messages.

(e) With intent to harass or annoy another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to harass or annoy another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(g) Knowingly permits or directs another person to send a message prohibited by this section from any computer terminal or other device that is used to send messages on an electronic mail or other computerized communication system and that is under his or her control.

History: 1995 a. 353.

947.013 Harassment. (1) In this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

(b) "Credible threat" means a threat made with the intent and apparent ability to carry out the threat.

(c) "Personally identifiable information" has the meaning given in s. 19.62 (5).

(d) "Record" has the meaning given in s. 19.32 (2).

(1m) Whoever, with intent to harass or intimidate another person, does any of the following is subject to a Class B forfeiture:

(a) Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.

(b) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

(1r) Whoever violates sub. (1m) under all of the following circumstances is guilty of a Class A misdemeanor:

(a) The act is accompanied by a credible threat that places the victim in reasonable fear of death or great bodily harm.

(b) The act occurs while the actor is subject to an order or injunction under s. 813.12, 813.122 or 813.125 that prohibits or limits his or her contact with the victim.

(1t) Whoever violates sub. (1r) is guilty of a Class I felony if the person has a prior conviction under this subsection or sub. (1r), (1v), or (1x) or s. 940.32 (2), (2e), (2m), or (3) involving the same victim and the present violation occurs within 7 years of the prior conviction.

(1v) Whoever violates sub. (1r) is guilty of a Class H felony if he or she intentionally gains access to a record in electronic format that contains personally identifiable information regarding the victim in order to facilitate the violation under sub. (1r).

(1x) Whoever violates sub. (1r) under all of the following circumstances is guilty of a Class H felony:

(a) The person has a prior conviction under sub. (1r), (1t) or (1v) or this subsection or s. 940.32 (2), (2e), (2m), or (3).

(b) The person intentionally gains access to a record in order to facilitate the current violation under sub. (1r).

(2) This section does not prohibit any person from participating in lawful conduct in labor disputes under s. 103.53.

History: 1983 a. 336; 1991 a. 194; 1993 a. 496; 2001 a. 109.

This section is not a safety statute and does not grant a private right of action for its violation. In re Estate of Drab, 143 Wis. 2d 568, 422 N.W.2d 144 (Ct. App. 1988).

947.015 Bomb scares. Whoever intentionally conveys or causes to be conveyed any threat or false information, knowing such to be false, concerning an attempt or alleged attempt being made or to be made to destroy any property by the means of explosives is guilty of a Class I felony.

History: 1977 c. 173; 2001 a. 109.

This section is not an included crime in s. 941.30, recklessly endangering safety. State v. Van Ark, 62 Wis. 2d 155, 215 N.W.2d 41 (1974).

Read with the requirement that only "true threats" can be prosecuted, this section does not violate the guarantee of free speech. State v. Robert T. 2008 WI App 22, 307 Wis. 2d 488, 746 N.W.2d 564, 06−2206.

947.017 Threats to release chemical, biological, or radioactive substances. (1) In this section:

(a) "Biological agent" means a microorganism or an infectious substance, or any naturally occurring, bioengineered, or synthesized toxin or component of a microorganism or an infectious substance that is capable of causing death, disease, or other biological malfunction in humans.

(b) "Harmful substance" means radioactive material that is harmful to human life, a toxic chemical or its precursor, or a biological agent.

(c) "Microorganism" includes a bacterium, virus, fungus, rickettsia, or protozoan.

(d) "Precursor" means any chemical reactant that takes part at any stage in the production by whatever method of a toxic chemical.

(e) "Toxic chemical" means any chemical that through its chemical action on life processes can cause death, temporary incapacitation, or permanent harm to humans.

(2) Whoever, knowing the threat to be false, intentionally threatens to release or disseminate a harmful substance, if the threat induces a reasonable expectation or fear that the person will release or disseminate a harmful substance, is guilty of a Class I felony.

History: 2003 a. 104.

947.019 Terrorist threats. (1) Whoever, under any of the following circumstances, threatens to cause the death of or bodily harm to any person or to damage any person's property is guilty of a Class I felony:

(a) The actor intends to prevent the occupation of or cause the evacuation of a building, dwelling, school premises, vehicle, facility of public transportation, or place of public assembly or any room within a building, dwelling, or school premises.

(b) The actor intends to cause public inconvenience.

(c) The actor intends to cause public panic or fear.

(d) The actor intends to cause an interruption or impairment of governmental operations or public communication, of transportation, or of a supply of water, gas, or other public service.

(e) The actor creates an unreasonable and substantial risk of causing a result described in par. (a), (b), (c), or (d) and is aware of that risk.

(2) Any person who violates sub. (1) and thereby contributes to any individual's death is guilty of a Class G felony.

History: 2015 a. 311.

947.02 Vagrancy. Any of the following are vagrants and are guilty of a Class C misdemeanor:

(1) A person, with the physical ability to work, who is without lawful means of support and does not seek employment; or

(3) A prostitute who loiters on the streets or in a place where intoxicating liquors are sold, or a person who, in public, solicits another to commit a crime against sexual morality; or

(4) A person known to be a professional gambler or known as a frequenter of gambling places or who derives part of his or her support from begging or as a fortune teller or similar impostor.

History: 1977 c. 173; 1993 a. 486; 1999 a. 83.

947.04 Drinking in common carriers. (1) Whoever while a passenger in a common carrier, publicly drinks intoxicants as a beverage or gives any other person intoxicants for that purpose under circumstances tending to provoke a disturbance, except in those portions of the common carrier in which intoxicants are specifically authorized by law to be sold or consumed, is guilty of a Class C misdemeanor.

(2) The person in charge of a common carrier may take from any passenger found violating this section any intoxicant then in the possession of such passenger, giving the passenger a receipt therefor, and shall keep the intoxicant until the passenger's point of destination is reached. Thereupon, the person in charge of the common carrier shall either return the intoxicant to the passenger or turn it over to the station agent. At any time within 10 days after the intoxicant is turned over to the station agent, the passenger may recover the intoxicant by surrendering the receipt given the passenger at the time the intoxicant was taken from the passenger.

History: 1973 c. 198; 1977 c. 173; 1993 a. 486; 1995 a. 225.

947.06 Unlawful assemblies and their suppression. (1) Sheriffs, their undersheriffs and deputies, constables, marshals and police officers have a duty to suppress unlawful assemblies within their jurisdiction. For that reason they may order all persons who are part of an assembly to disperse. An "unlawful assembly" is an assembly which consists of 3 or more persons and which causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed.

(2) An "unlawful assembly" includes an assembly of persons who assemble for the purpose of blocking or obstructing the lawful use by any other person, or persons of any private or public thoroughfares, property or of any positions of access or exit to or from any private or public building, or dwelling place, or any portion thereof and which assembly does in fact so block or obstruct the lawful use by any other person, or persons of any such private or public thoroughfares, property or any position of access or exit to or from any private or public building, or dwelling place, or any portion thereof.

(3) Whoever intentionally fails or refuses to withdraw from an unlawful assembly which the person knows has been ordered to disperse is guilty of a Class A misdemeanor.

(4) Whoever causes, attempts to cause, or participates in an unlawful assembly upon any property of a public institution of higher education or upon any highway abutting on such property, is punishable under sub. (3) if he or she fails to withdraw from the assembly promptly upon issuance of an order to disperse, if such order is given in such manner that such person can reasonably be expected to hear or read such order.

(5) Whoever, being employed in any capacity by or enrolled as a student in the institution, is convicted under subs. (1) to (4) may be sentenced additionally or alternatively to not to exceed 6 months suspension without pay from his or her employment by the institution if an employee, or suspension from enrollment in the institution if a student, or both if both an employee and a student. If the suspension is thus imposed, the institution shall not thereafter impose any other discipline upon the person for his or her connection with the unlawful assembly. Any period of suspension from employment by or enrollment in the institution already served shall be deducted by the court in imposing this sentence. Any period of imprisonment, whether or not the person is authorized under s. 303.08 to continue as an employee or student while imprisoned, shall count as a period of suspension from employment or enrollment or both hereunder.

History: 1977 c. 173; 1985 a. 135 s. 83 (5); 1989 a. 31; 1993 a. 486.

This section is constitutional. Cassidy v. Ceci, 320 F. Supp. 223 (1970).

947.07 Causing violence or breach of the peace by damaging or destroying a U.S. flag. (1) In this section, "flag" means a flag of the United States consisting of horizontal stripes, alternately colored red and white, and a union of any number of white stars on a blue field.

(2) Whoever destroys, damages, or mutilates a flag, or causes a flag to come into contact with urine, feces, or expectoration, with the intent to cause imminent violence or a breach of the peace under circumstances in which the actor knows that his or her conduct is likely to cause violence or a breach of the peace is guilty of a Class A misdemeanor.

History: 2003 a. 243.

947.20 Right to work. Anyone who violates s. 111.04 (3) (a) is guilty of a Class A misdemeanor.

History: 2015 a. 1.