



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2015 Wisconsin Act 81**  
[2015 Assembly Bill 7]

**Lesser-Included Offenses**

### **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: (a) does not require proof of any fact in addition to those that must be proven for the charged crime; (b) a crime that is a less serious or equally serious type of violation; or (c) 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 WISCONSIN ACT 81**

2015 Wisconsin Act 81 codifies the court’s interpretation in *Patterson*. The Act 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.

**Effective date:** The Act takes effect on November 13, 2015.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.