
Wisconsin Legislative Council

AMENDMENT MEMO



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Contact: Melissa Schmidt, Principal Attorney

2021 Assembly Bill 279

Assembly Amendment 2

BACKGROUND

Under current law, it is a crime, punishable by a Class A misdemeanor, to intentionally fail or refuse to withdraw from an **unlawful assembly**, which the person knows or has been ordered to disperse. Current law defines an “unlawful assembly” to mean:

[A]n assembly which consists of three 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.

Current law also expressly states that the definition of an unlawful assembly” includes:

[A]n 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.

2021 ASSEMBLY BILL 279

2021 Assembly Bill 279 creates a definition of “riot” and provides criminal penalties associated with various actions concerning riots.

The bill defines **riot** to mean a public disturbance involving an unlawful assembly and one of the following:

- An act of violence by one or more persons who are part of the unlawful assembly that constitutes a clear and present danger of, or would result in, damage to the property of any other person or **injury to another person**.
- A threat to commit an act of violence made by one or more persons who are part of the unlawful assembly that has, individually or collectively, the ability to immediately execute the threat, if the performance of the threatened act of violence would constitute a clear and present danger of, or would result in, damage to the property of any other person or **injury to another person**.
- An act of violence by one or more persons who are part of the unlawful assembly that substantially obstructs law enforcement or another governmental function.

The bill provides the following penalties associated for actions related to riots:

- A person who attends a riot or who refuses an order to disperse a riot is guilty of a Class A misdemeanor. The bill requires a court to sentence a person who commits this offense to a minimum term of confinement in a county jail or state correctional institution of 30 days.
- A person who incites or urges three or more persons to create or engage in a riot is guilty of a Class A misdemeanor.
- A person who, while participating in a riot, **blocks or obstructs** the lawful use by any other person of any private or public thoroughfare, or **blocks or obstructs** any positions of access or exit to any private or public building or dwelling, is guilty of a Class A misdemeanor.
- A person who knowingly participates in a riot that results in substantial damage to the property of another or bodily injury to another person is guilty of a Class I felony. The bill requires a court to sentence a person who commits this offense to a mandatory term of confinement in a county jail or a state correctional institution of 45 days.

ASSEMBLY AMENDMENT 2

Assembly Amendment 2 makes the following changes to the bill:

- Related to the definition of “unlawful assembly”:
 - Amends the definition to specify that it is “an assembly consisting of three 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 identifiable persons** or damage **to specific property** unless it is immediately dispersed.”
 - Amends the example of an “unlawful assembly” in the statutes to provide that it is “an assembly of persons who assemble for the purpose of **blocking or obstructing by force or threat of force** 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.”
- Amends the definition of a “riot,” described above, to specify that the with respect to an act or threat to commit an act of violence, the act or threat if performed constitutes a clear and present danger of, or would result in, damage to the property of any other person or injury to another person, **if the person is identifiable**.
- Related to the penalty provisions for riots, described above:
 - Adds the mental element of intent for actions related to riots.
 - Amends the penalty provision for blocking or obstructing property to prohibit the blocking or obstructing activity **if it is done by force or threat of force**.
 - Eliminates the 30-day and 45-day mandatory minimum terms of confinements.
 - Decreases the penalty for intentionally inciting or urging three or more persons to create or engage in a riot from a Class A misdemeanor to a Class B misdemeanor.

BILL HISTORY

Assembly Amendment 2 was introduced by Representative Spiros on January 10, 2022. On January 19, the Assembly Committee on Judiciary voted to recommend adoption of the amendment by a vote of Ayes, 5; Noes, 3; and to recommend passage of the bill, as amended, by a vote of Ayes, 5; Noes, 3.

MS:ksm