

James H. Schlender Jr.
Chief Judge

William J. Trepanier
Court Director/
Magistrate

Teshena LaRonge
Court Assistant



Susie J. Taylor
Clerk of Court

Patricia R. Harrington
Deputy Clerk of Court

MEMORANDUM

Date: August 15, 2018
To: Tribal Governing Board
From: James H. Schlender Jr., Chief Judge
Re: WI Stat 904.203, Battery to Court Personnel

Wisconsin Statute 940.203, recently amended under 2017 Wisconsin Act 352, to provide state protection for tribal court officials. The amendment under Act 352, which extended state prosecutorial authority for offenders who committed crimes against Tribal Court Officials, was greatly appreciated by the various tribal judiciaries located and operating within the State of Wisconsin. Prior to the amendment, there was direct method for State authorities to prosecute criminal conduct perpetrated against tribally-appointed judges and law enforcement officers. Similar protection existed for decades for the state-appointed counterparts (judges, law enforcement, justices, etc...)

However, I would recommend an amendment to the amendment to better protect the operations of Tribal Courts. The need for the protection for *court officials* is the due to the nature of the business conducted in their respective Courts. Judges preside over contentious issues relating to freedom, liberty, family matters and other conduct that involves controversy, this work has led to violence being perpetuated against judges and court officers. This violence warrants protection for court personnel/participants. The protection of the statute should be extended to *all* court participants for *all* circuit or tribal court proceedings. The participants for court proceedings usually involve government workers who are compelled to participate by virtue of their office; this includes court clerks, court reporters, social workers, child support staff, bailiffs, housing staff, and other government-employed staff that are required to be present, present testimony or other such evidence in such controversial matters before the court.

My recommendations for the amendment for WI Stat 940.203:

Lac Courte Oreilles Tribal Court
13394W. Trepania Road
Hayward, WI 54843
(715) 634-8934

Under Section (1):

Add (e) "Court Staff" means a person who is currently or formerly was any of the following:

1. Director of a social work department, Social worker, case worker assigned to a case under circuit or tribal court jurisdiction.
2. Court Administrator. Clerk of court, court reporter, bailiff, or court assistant for a circuit or tribal court.
3. A government employee, who is required to participate in circuit or tribal court proceedings as a function of their job function.

Add (f) "Tribe" or "tribal" means a federally-recognized American Indian tribe located with the political boundaries of the State of Wisconsin.

Under section (2)

(2) Whoever intentionally causes bodily harm or threatens to cause bodily harm to the person or family member of any judge, prosecutor, law enforcement officer **or Court Staff** under all of the following circumstances is guilty of a Class H felony:

- (a) At the time of the act or threat, the actor knows or should have known that the victim is a judge, prosecutor, or law enforcement officer, **or Court Staff** or a member of the judge's, prosecutor's, or law enforcement officer's family.
- (b) The act or threat is in response to any action taken by a judge, prosecutor, law enforcement officer, **or Court Staff** in an official capacity.
- (c) There is no consent by the person harmed or threatened.

Under Section (3)

(3) Whoever intentionally causes bodily harm or threatens to cause bodily harm to the person or family member of a current or former guardian ad litem, corporation counsel, attorney, or Court Staff under all of the following circumstances is guilty of a Class H felony:

- (a) At the time of the act or threat, the actor knows or should have known that the victim is a current or former guardian ad litem, corporation counsel, attorney, or Court Staff or a member of the current or former guardian ad litem's, corporation counsel's, attorney's, or Court Staff's family.

- (b) The act or threat is in response to an action taken by the current or former guardian ad litem, corporation counsel, attorney, or Court Staff in his or her official capacity in a proceeding under ch. [48](#), [51](#), [54](#), [55](#), [767](#), [813](#), or [938](#); or under same or similar proceedings under the Tribe's code.
- (c) There is no consent by the person harmed or threatened.