
Wisconsin Legislative Council

STUDY COMMITTEE MEMO



Memo No. 1

TO: MEMBERS OF THE STUDY COMMITTEE ON RECODIFICATION OF BATTERY STATUTES

FROM: Melissa Schmidt, Principal Attorney, and Peggy Hurley, Senior Staff Attorney

RE: Introduction to the Recodification of Battery Statutes, Sections 940.19 to 940.208, Stats.

DATE: August 22, 2024

INTRODUCTION

The Joint Legislative Council’s Study Committee on Recodification of Battery Statutes is directed to conduct a recodification of ss. 940.19 to 940.208, Stats., relating to the crime of battery, to include reorganizing the sections in a logical manner, renumbering and retitling sections, consolidating related provisions, modernizing language, resolving ambiguities in language, making other necessary organizational changes, and making minor substantive changes.

This Memo:

- Provides an overview of each criminal act of battery against another person, codified in ss. [940.19 to 940.208](#), Stats.
- Discusses the recodification process and the general scope of questions for consideration in recodifying the battery statutes, ss. 940.19 to 940.208, Stats.
- Sets forth, in **Attachment 1**, the current list of battery statutes found in ss. 940.19 to 940.208, Stats., with a description of the elements for each crime.

WISCONSIN’S BATTERY STATUTES

Background: Common Law Battery and Aggravated Battery

Under common law, the body of law created by judicial decisions, battery is defined as “an unlawful application of force directly or indirectly upon another person or their personal belongings, causing bodily injury or offensive contact.”¹ Battery is frequently referred to as “simple battery” and in most states, the penalty is a misdemeanor. Under common law, if the battery is accompanied by additional circumstances that make that the battery more severe, the crime is referred to as “aggravated battery.”

¹ *Black’s Law Dictionary*, 146 (7th ed. 1999) (definition of battery).

Examples under common law of an aggravated battery include the use of a deadly weapon or harm that results in serious bodily harm.² The penalty for an aggravated battery in most states is a felony.

Wisconsin Battery Statutes: Sections 940.19 to 940.208, Stats.

This section briefly describes the various battery statutes, and how the elements of each crime relate to one another. To help assist in understanding the elements of the battery statutes, **Attachment 1** lists all of the various elements the batteries.

Section 940.19, Stats.: Simple, Substantial, and Aggravated Batteries

In Wisconsin, the parallel to the common law concepts of simple battery and aggravated battery discussed above, are codified in s. 940.19, Stats., entitled, “Battery; substantial battery; aggravated battery.” As such, one may consider this the “baseline” battery statute. Section 940.19, Stats., sets forth both of the following:

- The elements required for each of simple battery, substantial battery, and aggravated battery.
- The penalty for each type of battery.

This statute also applies generally, without regard to any particular actor or victim. Similar to common law, the penalty for a simple battery is a Class A misdemeanor.³ The penalty for substantial battery is a Class I felony.⁴ The penalty for aggravated battery is either a Class H or Class E felony, depending upon the severity of bodily harm done to the victim and the severity of harm the actor intends to cause.⁵

Sections 940.195 to 940.208, Stats.: Batteries Committed Under Special Circumstances

Sections 940.195 to 940.208, Stats., criminalize battery but do so differently from the baseline battery statute, s. 940.19, Stats., in that they require different elements to prove the crime. Because of these different elements, some of the battery crimes contain the term “special circumstances” in their name or title. Batteries in s. 940.195, Stats., generally focus on who the victim is, who the actor is, or both. Generally, these batteries committed under special circumstances (special circumstances batteries) provide a higher penalty for battery, but do not provide a higher penalty than the baseline statute for substantial battery or aggravated battery.

As described in **Attachment 1**, the various special circumstances batteries are not uniform when comparing all of the following:

- The elements required to prove the special circumstances battery. For example, special circumstances batteries are inconsistent in how they treat the following elements:
 - The actor’s mental state (e.g., a specified knowledge or intent).

² *Id.* (definition of aggravated battery).

³ The penalty for a Class A misdemeanor is a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. [s. [939.51 \(3\) \(a\)](#), Stats.]

⁴ The penalty for a Class I felony is a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both. [s. [939.50 \(3\) \(i\)](#), Stats.]

⁵ For a Class E felony, the penalty is a fine not to exceed \$50,000 or imprisonment not to exceed 15 years, or both. The penalty for a Class H felony, is a fine not to exceed \$10,000 or imprisonment not to exceed six years, or both. [s. [939.50 \(3\) \(e\) and \(h\)](#), Stats.]

- Who the actor is (the actor's status). For example, the actor is a prisoner or detainee.
- Who the victim is (the victim's status). For example, the victim is a nurse, judge, law enforcement officer, crime victim, or a family member of such persons. The penalty of the special circumstances battery.

The table provided in **Attachment 2** groups the common elements among the various special circumstances battery statutes as another way to compare the elements of these batteries.

RECODIFICATION PROCESS

Scope of Recodification

A statutory recodification can entail one or more of the following:

- Reorganizing a body of law in a logical fashion by: (1) renumbering and retitling sections and section subunits; (2) grouping related parts of the body of law (e.g., using subchapters or creating new chapters); (3) consolidating related provisions; (4) incorporating appropriate statutes found elsewhere; and (5) renumbering statutes more appropriately placed elsewhere.
- Modernizing language to reflect current drafting style and word usage.
- Resolving ambiguities in the language of current law.
- Reconciling conflicts in current law.
- Filling gaps in specific substantive areas where the law is silent.
- Eliminating archaic, anachronistic, unnecessary, or unconstitutional provisions of the law.
- Codifying relevant decisions of the Supreme Court and court of appeals and past Attorney General opinions interpreting the laws in question.
- Making other substantive changes deemed necessary or desirable.

Depending on the scope of a particular recodification, one or more of the above tasks may not be pursued. A minimal recodification effort might only entail reorganization. An example of a reorganization-only recodification is the reorganization of ch. 144, Stats. (Water, Sewage, Refuse, Mining, and Air Pollution), into several separate chapters as recommended by the Joint Legislative Council's Special Committee on Remediation of Environmental Contamination. [[1995 Wisconsin Act 227](#).] Another example of a minimal recodification effort is the reorganization of ch. 45, Stats. (Veterans), recommended by the Joint Legislative Council's Special Committee on Recodification of Chapter 45, Veterans, which reorganized the chapter from two subchapters into eight subchapters, modernized language, repealed unnecessary provisions, and made minor substantive changes. [[2005 Wisconsin Act 22](#).]

Similarly, the reorganization of ch. 21, 2005 Stats. (Department of Military Affairs), recommended by the Joint Legislative Council's Special Committee on Recodification of Chapter 21, Military Affairs, was primarily a reorganization, but it did so by creating ch. 321, Stats., and moving provisions from ch. 21, Stats., into this new chapter. The recodification also created ch. 322, Stats., for the Wisconsin Code of Military Justice (WCMJ), so that WCMJ was codified in statute.⁶ In addition, the recodification

⁶ Prior to the recodification, WCMJ was referenced in [s. 21.37, 2005 Stats.](#), which provided that the "Wisconsin code of military justice as created by [ch. 20, laws of 1969](#), shall govern the conduct of all members of the national guard and

included modernizing language, rewriting selected provisions of the chapter, and minor substantive changes. [[2007 Wisconsin Act 200.](#)]

Two examples of more complete recodification efforts are:

- The recodification of ch. 60, Stats., relating to towns, by the Legislative Council's Special Committee on Revision of Town Laws. [[1983 Wisconsin Act 532.](#)]
- The recodification of ch. 74, Stats., relating to property tax collection, by the Legislative Council's Special Committee on Property Tax Collection Laws. [[1987 Wisconsin Act 378.](#)]

The latter two projects, while using the existing law as the basis for the recodified law, repealed and recreated the entire chapters involved and made extensive changes in the wording and substance of the chapters. It should be noted that chs. 60 and 74, Stats., dealt with relatively discrete subject areas.

The number of battery statutes found in ss. 940.19 to 940.208, Stats., coupled with the Joint Legislative Council's directive that any substantive changes be "minor," suggest that consideration be given to focusing primarily on technical revisions to these particular statutes while giving a more complete recodification treatment to certain selected provisions. During the recodification process, substantive issues may be raised by committee members, outside sources, or committee staff for discussion and decision. Additional research necessary to resolve individual questions will be undertaken on an as-needed basis.

Use of Explanatory Notes

An important component of a recodification process is the preparation of explanatory notes, which are incorporated into the body of draft legislation prepared for the committee. For any legislation recommended by the committee, the notes serve to provide the legislative history of the recodified law. The notes will, for example:

- Identify the source of the recodified law (i.e., previous law, court decision, decision by the study committee) and, if previous law, the previous location of the provisions;
- Identify archaic and anachronistic or unconstitutional provisions of previous law which have been deleted; and
- Identify and articulate the basis for substantive changes.

The explanatory notes are prepared by committee staff as part of the recodification process. The SECTION notes, as well as the recodified text of the law, are reviewed by the study committee.

GENERAL SCOPE OF QUESTIONS FOR CONSIDERATION IN RECODIFYING THE BATTERY STATUTES

This committee is charged with recodifying the battery statutes in a manner that is logical, consistent, and true to legislative intent. To this end, the committee may create new statutes; amend, combine, or recreate existing statutes; or amend related statutes to conform to the recodification. In considering the

any other military force organized under the laws of this state." However, this statute prohibited the Revisor of Statutes printing the WCMJ in the statutes.

possible scope of the recodification of the battery statutes, the following general questions might be considered:

- What provisions in ss. 940.19 to 940.208, Stats., are in need of substantial rewriting, which can be accomplished without substantial controversy. For example:
 - Rewriting elements of the various battery statutes to create uniformity.
 - Rewriting provisions to modernize the language to reflect current drafting style and word usage.
- What provisions in ss. 940.19 to 940.208, Stats., should **not** be rewritten (either because they are: (1) too controversial among various interest groups, such as prosecutors, defense attorneys, and advocacy groups; or (2) there is a lack of interest in modifying a certain provision because, for example, court decisions interpreting statutory language adequately deal with the issues raised and a codification of those decisions would be too complex and provide little, if any, additional clarity)?
- What provisions in ss. 940.19 to 940.208, Stats., should be reorganized by: (1) creating a new subchapter specific to battery; (2) combining all of the statutory sections into an “umbrella” statute (e.g., combining all of the special circumstances batteries into one statute); or (3) combining statutory sections so that similar offenses are grouped together (e.g., combining all special circumstances batteries relating to the victim’s status as a public employee or official).
- What minor substantive changes in ss. 940.19 to 940.208, Stats., are desirable? These would include:
 - Making minor substantive changes to reflect a consensus as to current practice versus current statutory language.
 - Making minor substantive changes to codify “noncontroversial” appellate court decisions and Attorney General opinions interpreting certain provisions because of ambiguity or conflicts in the law, for example.
 - Filling in gaps in specific noncontroversial substantive areas where the law is silent.
 - Reconciling conflicts in the battery statutes with other statutes (e.g., procedures or time limits in separate provisions that conflict).
- To what extent do ss. 940.19 to 940.208, Stats., need to be reorganized?

It is not necessary to fully address or agree on responses to the above questions before the recodification process begins; many of the questions will be addressed as individual provisions of ss. 940.19 to 940.208, Stats., are considered during the recodification process.

ATTACHMENT 1

SECTION 940.19, STATS.: SIMPLE, SUBSTANTIAL, AND AGGRAVATED BATTERIES

Section 940.19, Stats., establishes the elements and penalties for simple battery, substantial battery, and aggravated battery, none of which involve a special circumstance. Under that statute:

- (1) Whoever causes bodily harm⁷ to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a Class A misdemeanor (simple battery).
- (2) Whoever causes substantial bodily harm⁸ to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class I felony (substantial battery).
- (4) Whoever causes great bodily harm⁹ to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class H felony (aggravated battery with intent to cause bodily harm).
- (5) Whoever causes great bodily harm to another by an act done with intent to cause great bodily harm to that person or another is guilty of a Class E felony (aggravated battery with intent to cause great bodily harm).
- (6) Whoever intentionally causes bodily harm to another by conduct that creates a substantial risk of great bodily harm is guilty of a Class H felony (battery with substantial risk of great bodily harm).¹⁰

Under this statute, the victim's identity, occupation, level of vulnerability, or other characteristic is irrelevant. The elements of battery under this statute include the level the harm caused by the actor's acts, the actor's intent, and depending on the particular crime charged, and whether the victim consented.

⁷ "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition. [s. 939.22 (4), Stats.]

⁸ "Substantial bodily harm" means bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight or hearing; a concussion; or a loss or fracture of a tooth. [s. 939.22 (38), Stats.]

⁹ "Great bodily harm" means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury. [s. 939.22 (14), Stats.]

¹⁰ There is a rebuttable presumption that conduct creates a substantial risk of great bodily harm if the person harmed has a physical disability, whether congenital or acquired by accident, injury or disease, that is discernible by an ordinary person viewing the physically disabled person, or that is actually known by the actor.

SECTIONS 940.195 TO 940.208, STATS.: BATTERIES UNDER SPECIAL CIRCUMSTANCES

Overview of Special Circumstances

Current law provides for enhanced penalties for causing bodily harm to a person under one or more “special circumstances.” Generally, the level of harm to the victim is not addressed by the special circumstances statutes and, therefore, persons who cause substantial or great bodily harm to another person are likely to be charged with substantial or aggravated battery under s. 940.19, Stats. As explained below, s. 940.195, Stats., battery to an unborn child, is an example of an exception in that the penalties for that type of battery depend on whether the battery causes bodily harm, substantial bodily harm, or great bodily harm.

Special circumstances may describe the victim’s particular vulnerability, such as ss. 940.195 and 940.198, Stats., battery to an unborn child and physical abuse of an elder person, respectively. Several statutes create an enhanced penalty for causing bodily harm if the victim is acting in, or is known to occupy, a specified professional or official capacity, or if the actor is in a specified class of persons, such as a prisoner or a person subject to certain injunctions or restraining orders.

The table provided in Attachment 2 groups the common elements among the various special circumstances battery statutes as another way to compare the elements of these batteries.

Special Circumstances Relating to Victim’s Particular Vulnerability

Section 940.195, Stats., Simple, Substantial, or Aggravated Battery to an Unborn Child

This statute establishes the elements and penalties for battery to an unborn child. Under this statute, the elements and penalties are identical to battery under s. 940.19, Stats., except as follows:

- The actor must intend to cause harm to the unborn child, to the woman who is pregnant with that unborn child, or another.
- If the person harmed (e.g., the pregnant woman) has a physical disability that is discernible by an ordinary person viewing the physically disabled person, or that is actually known by the actor, there is no rebuttable presumption that when the actor intentionally caused bodily harm, this conduct created a substantial risk of great bodily harm.

Section 940.198, Stats., Physical Abuse of an Elder Person

This statute establishes the elements and penalties for recklessly or intentionally causing bodily harm or great bodily harm to an elder person, defined in the statute as someone who is 60 years of age or older. Under the statute, a person is guilty of the following:

- A Class H felony if the person intentionally caused bodily harm to the elder person.
- A Class F felony if the person intentionally caused bodily harm to the elder person under circumstances or conditions that are likely to produce great bodily harm.
- A Class C felony if the person intentionally caused great bodily harm to the elder person.
- A Class I felony if the person recklessly caused bodily harm to the elder person.
- A Class E felony if the person recklessly caused great bodily harm to the elder person.

- A Class H felony if the person recklessly caused bodily harm to an elder person under circumstances or conditions that are likely to produce great bodily harm.

Under the statute, it is not necessary to prove that the actor knew the victim's age, and it is not a defense to demonstrate that the actor was mistaken about the victim's age.

Special Circumstances Relating to the Actor's Status

Section 940.20 (1), Stats., Battery by Prisoners

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor is a prisoner confined to a state prison or other state, county, or municipal detention facility.
- The actor caused bodily harm or caused a soft tissue injury to the victim.
- The actor intentionally caused the bodily harm or soft tissue injury.
- The victim was an officer, employee, visitor, or another inmate of the prison or institution.
- The victim did not consent to the bodily harm.

Section 940.20 (1g), Stats., Battery by Certain Detained or Committed Persons

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor has been placed in a facility for sexually violent persons as authorized under current law.¹¹
- The actor caused bodily harm to the victim.
- The actor intentionally caused the bodily harm.
- The victim was an officer, employee, agent, visitor, or other resident of the facility.
- The victim did not consent to the bodily harm.

Section 940.20 (1m), Stats., Persons Subject to Certain Injunctions

Under this statute, an actor is guilty of a Class I felony if all of the following are true:

- The actor is subject to a domestic abuse injunction or a harassment injunction.¹²
- The actor caused bodily harm to the victim.
- The actor intentionally caused the bodily harm.
- The victim was the petitioner who sought the injunction.
- The victim did not consent to the bodily harm.

¹¹ See ss. [980.04](#) and [980.065](#), Stats.

¹² See ss. [813.12](#), [813.128 \(3g\)](#), and [813.125](#), Stats.

Special Circumstances Relating to the Victim's Status

Victims Who Are Court or Justice Involved

Section 940.20 (2m), Stats., Battery to Probation, Extended Supervision and Parole Agents, Community Supervision Agents, and Aftercare Agents

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor caused or threatened to cause bodily harm to the victim.
- The actor intentionally caused or threatened the bodily harm.
- The victim is a probation, extended supervision or parole agent, a community supervision agent, an aftercare agent, or a family member of one of the specified agents.
- The actor knew or had reason to know of the victim's professional status.
- The act was done in response to any action taken by the agent acting in an official capacity
- The victim did not consent to the bodily harm or threat.

Section 940.20 (3), Stats., Battery to Jurors

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor caused bodily harm to the victim.
- The actor intentionally caused the bodily harm.
- The victim is or was a grand or petit juror.
- The actor knew or had reason to know of the victim's status as a juror.
- The act was done by reason of any verdict or indictment to which the victim assented.
- The victim did not consent to the bodily harm.

Section 940.201, Stats., Battery or Threat to Witness

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor caused or threatened to cause bodily harm to the victim.
- The actor intentionally caused or threatened the bodily harm.
- The victim was a witness in court, a family member of a witness, or a person sharing a common domicile with a witness.
- The actor knew or had reason to know of the victim's status as a witness, family member,¹³ or member of the witness' domicile.
- The act was done by reason of the witness having attended or testified as a witness.
- The victim did not consent to the bodily harm or threat.

¹³ For purposes of s. 940.201., the term "family member" is defined to mean a "spouse, child, stepchild, foster child, parent, sibling, or grandchild." [s. [940.201 \(1\) \(a\)](#), Stats.]

Section 940.203, Stats., Battery or Threat to Officer of the Court or Law Enforcement Officer

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor caused or threatened to cause bodily harm to the victim.
- The actor intentionally caused or threatened the bodily harm.
- At the time of the offense, the victim was any of the following:
 - A current a judge, prosecutor, or law enforcement officer or a family member¹⁴ of such person.
 - A current or former guardian ad litem, corporation counsel, advocate, or attorney, or a family member of such person.
- The act was done in response to an official action taken by an officer of the court or the law enforcement officer.
- The victim did not consent to the bodily harm or threat.

Victims Who Are Other Public Employees

Section 940.20 (2), Stats., Battery to Fire Fighters and Commission Wardens

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor caused bodily harm to the victim.
- The actor intentionally caused the bodily harm.
- The victim was a fire fighter or commission warden.
- The actor knew or had reason to know of the victim's status as a fire fighter or commission warden.
- The victim was acting in his or her official capacity at the time of the battery.
- The victim did not consent to the bodily harm.

Section 940.20 (4), Stats., Battery to Public Officers.

Under this statute, an actor is guilty of a Class I felony if all of the following are true:

- The actor caused bodily harm to the victim.
- The actor intentionally caused the bodily harm.
- The victim was a public officer.¹⁵
- The act was done in order to influence the action of the victim or as a result of any action taken within the victim's official capacity.

¹⁴ For purposes of this battery or threat of battery, the term "family member" is defined to mean a "parent, spouse, sibling, child, stepchild, or foster child." This definition also applies to the crime of: (a) battery or threat to health care providers and staff; (b) battery or threat to a Department of Revenue (DOR) employee; and (c) battery or threat to Department of Safety and Professional Services (DSPS) or a Department of Workforce Development (DWD) employee, [ss. [940.203 \(1\) \(am\)](#), [940.204 \(1\) \(a\)](#), [940.205. \(1\)](#), and [940.207 \(1\)](#), Stats.] This definition differs, however, from the definition of battery to a witness, which defines a family member to also include a grandchild. [s. [940.201 \(1\) \(a\)](#), Stats.]

¹⁵ A "public officer" is any person appointed or elected according to law to discharge a public duty for the state or one of its subordinate governmental units. [s. [939.22 \(30\)](#), Stats.]

- The victim did not consent to the bodily harm.

Section 940.20 (4m), Stats., Battery to Election Officials, Election Registration Officials, or Clerks

Under this statute, an actor is guilty of a Class I felony if all of the following are true:

- The actor caused bodily harm to the victim.
- The actor intentionally caused the bodily harm.
- The victim was an election official,¹⁶ election registration official,¹⁷ county clerk,¹⁸ or municipal clerk.¹⁹
- The actor knew or had reason to know of the victim's status as an election official, registration official, or municipal clerk.
- The victim was acting in his or her official capacity.
- The victim did not consent to the bodily harm.

Section 940.20 (5), Stats., Battery to Technical College District or School District Officers and Employees

Under this statute, an actor is guilty of a Class I felony if all of the following are true:

- The actor caused bodily harm to the victim.
- The actor intentionally caused the bodily harm.
- The victim was a technical college district or school district officer or employee.
- The actor knew or had reason to know of the victim's status as a technical college district or school district officer or employee.
- The victim was acting in his or her official capacity.
- The victim did not consent to the bodily harm.

Section 940.20 (6), Stats., Battery to a Public Transit Vehicle Operator, Driver, or Passenger²⁰

Under this statute, an actor commits a Class I felony if all of the following are true:

- The actor caused bodily harm to the victim.

¹⁶ An "election official" is "an individual who is charged with any duties relating to the conduct of an election." [ss. 5.02 (4e) and [940.20 \(4m\) \(a\) 2.](#), Stats.,][

¹⁷ An "election registration official" is "an election official assigned under [current law] to register electors." [ss. [5.02 \(4g\)](#) and [940.20 \(4m\) 3.](#), Stats.]

¹⁸ A "county clerk" includes "includes the executive director of the county board of election commissioners and their authorized representatives." [ss. [5.02 \(2\)](#) and [940.20 \(4m\) \(1\)](#), Stats.]

¹⁹ A "municipal clerk" is "the city clerk, town clerk, village clerk and the executive director of the city election commission and their authorized representatives. Where applicable, "municipal clerk" also includes the clerk of a school district." [ss. [5.02 \(10\)](#) and [940.20 \(4m\) \(a\) 4.](#), Stats.]

²⁰ The elements of this special circumstances battery apply equally if the victim is a public employee or a passenger; for simplicity's sake, this Memo includes passengers in the category of special circumstances due to a victim's public employment.

- The actor intentionally caused the bodily harm.
- The harm occurred under one of the following circumstances:
 - While the victim was an operator, a driver, or a passenger of, in, or on a public transit vehicle.
 - After the actor forced or directed the victim to leave a public transit vehicle.
 - As the actor prevented, or attempted to prevent, the victim from gaining lawful access to a public transit vehicle.

Section 940.205, Stats., Battery or Threat to a DOR Employee

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor caused or threatened to cause bodily harm to the victim.
- The actor intentionally caused or threatened the bodily harm.
- The victim was a DOR employee or a family member of a DOR employee.
- The actor knew or should have known of the victim's status as a DOR employee or as a family member of a DOR employee.
- The victim was acting in an official capacity at the time of the act or threat or the act or threat was in response to any action taken in an official capacity.
- The victim did not consent to the bodily harm or threat.

Section 940.207, Stats., Battery or Threat to a DSPS or DWD Employee

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor caused or threatened to cause bodily harm to the victim.
- The actor intentionally caused or threatened the bodily harm.
- The victim was an employee, or a family member of an employee, of DSPS or DWD.
- The actor knew or should have known of the victim's status as an employee or a family member of an employee of DSPS or DWD.
- The victim was acting in an official capacity at the time of the act or threat or the act or threat was in response to any action taken in an official capacity.
- The victim did not consent to the bodily harm or threat.

Section 940.208, Stats., Battery to Certain Employees of Counties, Cities, Villages, or Towns

Under this statute, an actor is guilty of a Class I felony if all of the following are true:

- The actor caused bodily harm to the victim.
- The actor intentionally caused the bodily harm.
- The actor knew or should have known that the victim was an employee of a county, city, town, or village.
- At the time of the act, the victim was enforcing, or conducting an inspection for the purpose of enforcing, a state, county, city, village, or town zoning ordinance, building code, or other

construction law, rule, standard, or plan at the time of the act or the act was in response to any such enforcement or inspection activity.

- The enforcement or inspection complied with any law, ordinance, or rule, including any applicable notice requirement.
- The victim did not consent to the bodily harm.

Victims Who Are Health Care Providers

Section 940.204, Stats., Battery or Threat to Health Care Providers and Staff²¹

Under this statute, an actor is guilty of a Class H felony if all of the following are true:

- The actor caused or threatened to cause bodily harm to the victim.
- The actor intentionally caused or threatened the bodily harm.
- The victim was a health care provider or a family member of a person who is a health care provider.
- The actor knew or should have known that the victim was a current or former health care provider.
- The act was in response to an action by the health care provider in his or her professional capacity.
- The victim did not consent to the bodily harm or threat.

²¹ Section 940.204, Stats., provides slightly different elements for the crimes of battery to a person who works in a health care facility and battery to a health care provider, but the required intent and knowledge are essentially the same, as is the penalty. If the committee determines that this statute should be amended or recreated, it may wish to revisit the different elements for each crime.

ATTACHMENT 2

Common Elements Among the Various Special Circumstances Battery Statutes

Battery Statute	Threat of Battery Also Prohibited	Family Members Included as Possible Victims	Victim Did Not Consent to Battery	Actor Required to Know of Victim's Status	Victim in Official Capacity OR Actor Motivated by Official Act
940.20 (1)			X	Implied	Implied
940.20 (1g)			X	Implied	Implied
940.20 (1m)			X	Implied	N/A
940.20 (2)			X	X	X
940.20 (2m)	X	X	X	X	X
940.20 (3)			X	X	X
940.20 (4)			X	Implied	X
940.20 (4m)			X	X	X
940.20 (5)			X	X	X
940.20 (6)				Implied	
940.201	X	X	X	X	X
940.203	X	X	X	X	X
940.204	X	X	X	X	X
940.205	X	X	X	X	X
940.207	X	X	X	X	X
940.208			X	X	X