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# Wisconsin Legislative Council

## ACT MEMO

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Prepared by: Tom Koss, Staff Attorney

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**2021 Wisconsin Act 209**  
[2021 Assembly Bill 960]

**Battery or Threat to a Health  
Care Provider or Staff Member of  
a Health Care Facility**

### BACKGROUND

In general, a person commits the crime of battery if he or she causes bodily harm<sup>1</sup> to another person without the other person's consent. The crime of battery is a Class A misdemeanor.

Under certain circumstances, however, a person who commits battery is guilty of a Class H felony rather than a Class A misdemeanor. As relevant to 2021 Wisconsin Act 209, prior law prohibited intentionally causing bodily harm to certain medical professionals, if the person harmed was acting in an official capacity, the actor knew or had reason to know the person's profession, and the actor caused bodily harm without the person's consent. This Class H felony penalty applied for an offense committed against the following medical professionals:

- A health care provider who works in a hospital.
- An emergency department worker.
- An emergency medical services practitioner.
- An emergency medical responder.
- An ambulance driver.
- A licensed nurse.
- A person acting under the supervision of a nurse.

The penalty for a Class A misdemeanor is a fine of up to \$10,000, imprisonment of up to nine months, or both. The penalty for a Class H felony is a fine of up to \$10,000, imprisonment of up to six years, or both.

### 2021 WISCONSIN ACT 209

2021 Wisconsin Act 209 repealed the provisions discussed above relating to battery to certain medical professionals and replaces them with two new offenses: (1) battery or threat to a health care facility worker and (2) battery or threat to a health care provider. The offenses created by the act expand the categories of persons to whom battery is considered a Class H felony, prohibit intentionally causing bodily harm and threatening to cause bodily harm, and prohibit battery or threats to family members of the persons covered by the act.<sup>2</sup>

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<sup>1</sup> Current law defines "bodily harm" to mean "physical pain or injury, illness, or any impairment of physical condition." [s. 939.22(4), Stats.]

<sup>2</sup> "Family member" includes a parent, spouse, sibling, child, stepchild, or foster child.

The act requires the Department of Justice to post on its website model language that health care facilities may post at entrances to alert persons to the penalties provided under the act.

### **Battery or Threat to Health Care Facility Worker or Family Member**

Act 209 provides felony penalties for intentionally causing bodily harm or threatening to cause bodily harm to a person who works in a health care facility or to a family member of a person who works in a health care facility, if all of the following circumstances apply:

- At the time of the act or threat, the actor knows or should have known that the victim: (1) works in a health care facility; (2) worked in a health care facility; or (3) is a family member of a person who works or worked in a health care facility.
- The act or threat is in response to either an action that occurred at the health care facility or an action by an official, employee, or agent of the health care facility acting in his or her official capacity.
- The person injured or threatened did not consent to the act or threat.

“Health care facility” includes the following places:

- A hospital.
- A clinic, which is a location with the primary purpose of providing outpatient diagnosis, treatment, or management of health conditions.
- A licensed pharmacy.
- An adult day care center.
- An adult family home.
- A community-based residential facility.
- A residential care apartment complex.
- A nursing home.
- A mental health or substance use disorder facility, which is a location that provides diagnosis, treatment, or management of mental health or substance use disorders.
- An ambulatory surgical center.

### **Battery or Threat to Health Care Provider or Family Member**

Act 209 provides felony penalties for intentionally causing bodily harm or threatening to cause bodily harm to a health care provider or to a family member of a health care provider, if all of the following circumstances apply:

- At the time of the act or threat, the actor knew or should have known that the victim is: (1) a health care provider or (2) a family member of a health care provider.
- The act or threat was in response to an action by the health care provider acting in his or her capacity as a health care provider.
- The person injured or threatened did not consent to the act or threat.

“Health care provider” includes the following professions:

- A licensed nurse.
- A licensed chiropractor.
- A licensed dentist.
- A licensed or certified physician, perfusionist, or respiratory care practitioner.
- A physical therapist or physical therapist assistant who is licensed or holds a compact privilege.
- A licensed podiatrist.
- A certified dietitian.
- A licensed athletic trainer.
- An occupational therapist or occupational therapist assistant who is licensed or holds a compact privilege.
- A licensed physician assistant.
- A licensed optometrist.
- A licensed or registered pharmacist or pharmacy technician.
- A certified acupuncturist.
- A licensed psychologist.
- A certified or licensed social worker, marriage and family therapist, or professional counselor.
- A licensed speech-language pathologist, audiologist, or speech and language pathologist.
- A licensed massage therapist or bodywork therapist.
- An ambulance service provider.
- An emergency medical services practitioner.
- An emergency medical responder.
- A licensed or permitted radiographer or limited X-ray machine operator.
- A driver of an ambulance.

**Effective date:** March 25, 2022

TK:jal