



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2718/1
CMH&EAW:cde

2021 ASSEMBLY BILL 279

April 20, 2021 - Introduced by Representatives SPIROS, KNODL, CABRAL-GUEVARA, CALLAHAN, DITTRICH, EDMING, JAMES, KUGLITSCH, MURPHY, NEYLON, RAMTHUN, WICHGERS, STEFFEN, MAGNAFICI, GUNDRUM, MOSES and ROZAR, cosponsored by Senators WANGGAARD and MARKLEIN. Referred to Committee on Judiciary.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber* 947.06 (4); *to renumber and amend* 947.06 (5); *to*
2 *consolidate, renumber and amend* 947.06 (1) and (2); *to amend* 940.20 (2)
3 and 941.375 (1) (b); and *to create* 947.06 (1m) (intro.) and (a) and 947.06 (6) of
4 the statutes; **relating to:** participation in a riot and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, law enforcement officers have a duty to suppress an unlawful assembly. Current law defines an “unlawful assembly” as an assembly of at least three people that causes such a disturbance that it is reasonable to believe that the assembly could cause injury or property damage if not dispersed. A person who fails or refuses to withdraw from an unlawful assembly that has been ordered to disperse is guilty of a Class A misdemeanor.

The bill defines a “riot” as a public disturbance that involves an unlawful assembly and one of the following:

1. An act of violence by at least one person in the unlawful assembly that constitutes a clear and present danger of property damage or personal injury or would result in property damage or personal injury.

2. A threat to commit an act of violence made by at least one person in the unlawful assembly if there was an ability to immediately execute the threat and if the threatened act would constitute a clear and present danger of property damage or personal injury or would result in property damage or personal injury.

3. An act of violence by at least one person in the unlawful assembly that substantially obstructs law enforcement or another governmental function.

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Under the bill, it is a Class A misdemeanor to attend a riot, incite a riot, or block or obstruct the lawful use of a thoroughfare while participating in a riot, and it is a Class I felony to knowingly participate in a riot that results in substantial damage to property or personal injury. Under the bill, the misdemeanor of attending a riot carries a 30-day mandatory minimum period of incarceration and the felony of knowingly participating in a riot that results in injury or property damage carries a 45-day mandatory minimum period of incarceration.

Under current law, a person who intentionally causes bodily harm to another person commits the crime of simple battery and is guilty of a Class A misdemeanor. Current law provides greater penalties for persons who intentionally cause bodily harm to certain persons, which is special circumstances battery. For example, under current law, if a person intentionally causes bodily harm to a first responder, including a law enforcement officer, an emergency medical care provider, or a fire fighter, the person is guilty of a Class H felony. The bill adds to that list a member of the national guard so that it is a Class H felony to intentionally cause bodily harm to a member of the national guard.

Under current law, it is a Class I felony to throw or expel a bodily substance at a prosecutor, an emergency medical care provider, a peace officer, a fire fighter, or a person staffing an ambulance. The bill adds to that list a member of the national guard so that it is also a Class I felony to throw or expel a bodily substance at a member of the national guard.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 940.20 (2) of the statutes is amended to read:

2 940.20 (2) BATTERY TO FIRE FIGHTERS, NATIONAL GUARD MEMBERS, AND COMMISSION
3 WARDENS. Whoever intentionally causes bodily harm to a fire fighter, as defined in
4 s. 102.475 (8) (b), to a member of the national guard, or to a commission warden,
5 acting in an official capacity and the person knows or has reason to know that the
6 victim is a fire fighter, member of the national guard, or commission warden, by an
7 act done without the consent of the person so injured, is guilty of a Class H felony.

8 **SECTION 2.** 941.375 (1) (b) of the statutes is amended to read:

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1 941.375 (1) (b) “Public safety worker” means an emergency medical services
2 practitioner licensed under s. 256.15, an emergency medical responder certified
3 under s. 256.15 (8), a peace officer, a fire fighter, ~~or~~ a person operating or staffing an
4 ambulance, or a member of the national guard.

5 **SECTION 3.** 947.06 (1) and (2) of the statutes are consolidated, renumbered
6 947.06 (2m) and amended to read:

7 947.06 (2m) Sheriffs, their undersheriffs and deputies, constables, marshals,
8 and police officers have a duty to suppress unlawful assemblies within their
9 jurisdiction. For that reason they may order all persons who are part of an assembly
10 to disperse. ~~An “unlawful~~

11 **(1m)** (b) “Unlawful assembly” is means an assembly which consists of 3 or more
12 persons and which causes such a disturbance of public order that it is reasonable to
13 believe that the assembly will cause injury to persons or damage to property unless
14 it is immediately dispersed. ~~(2)~~ An “unlawful assembly” includes an assembly of
15 persons who assemble for the purpose of blocking or obstructing the lawful use by any
16 other person, or persons of any private or public thoroughfares, property or of any
17 positions of access or exit to or from any private or public building, or dwelling place,
18 or any portion thereof and which assembly does in fact so block or obstruct the lawful
19 use by any other person, or persons of any such private or public thoroughfares,
20 property or any position of access or exit to or from any private or public building, or
21 dwelling place, or any portion thereof.

22 **SECTION 4.** 947.06 (1m) (intro.) and (a) of the statutes are created to read:

23 947.06 (1m) (intro.) In this section:

24 (a) “Riot” means a public disturbance involving an unlawful assembly and one
25 of the following:

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1 1. An act of violence by one or more persons who are part of the unlawful
2 assembly that constitutes a clear and present danger of, or would result in, damage
3 to the property of any other person or injury to another person.

4 2. A threat to commit an act of violence made by one or more persons who are
5 part of the unlawful assembly that has, individually or collectively, the ability to
6 immediately execute the threat, if the performance of the threatened act of violence
7 would constitute a clear and present danger of, or would result in, damage to the
8 property of any other person or injury to another person.

9 3. An act of violence by one or more persons who are part of the unlawful
10 assembly that substantially obstructs law enforcement or another governmental
11 function.

12 **SECTION 5.** 947.06 (4) of the statutes is renumbered 947.06 (4) (a).

13 **SECTION 6.** 947.06 (5) of the statutes is renumbered 947.06 (4) (b) and amended
14 to read:

15 947.06 (4) (b) Whoever, being employed in any capacity by or enrolled as a
16 student in the institution, is convicted under ~~subs. (1) to (4)~~ sub. (3) or (6) may be
17 sentenced additionally or alternatively to not to exceed 6 months suspension without
18 pay from his or her employment by the institution if an employee, or suspension from
19 enrollment in the institution if a student, or both if both an employee and a student.

20 If the suspension is thus imposed, the institution shall not thereafter impose any
21 other discipline upon the person for his or her connection with the unlawful
22 assembly. Any period of suspension from employment by or enrollment in the
23 institution already served shall be deducted by the court in imposing this sentence.

24 Any period of imprisonment, whether or not the person is authorized under s. 303.08

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1 to continue as an employee or student while imprisoned, shall count as a period of
2 suspension from employment or enrollment or both hereunder.

3 **SECTION 7.** 947.06 (6) of the statutes is created to read:

4 947.06 (6) (a) A person who attends a riot or who refuses an order to disperse
5 a riot is guilty of a Class A misdemeanor. The court shall sentence a person who
6 violates this paragraph to a minimum term of confinement in a county jail or a state
7 correctional institution of 30 days.

8 (b) A person who incites or urges 3 or more persons to create or engage in a riot
9 is guilty of a Class A misdemeanor.

10 (c) A person who, while participating in a riot, blocks or obstructs the lawful
11 use by any other person of any private or public thoroughfare, or blocks or obstructs
12 any positions of access or exit to any private or public building or dwelling, is guilty
13 of a Class A misdemeanor.

14 (d) A person who knowingly participates in a riot that results in substantial
15 damage to the property of another person or bodily injury to another person is guilty
16 of a Class I felony. The court shall sentence a person who violates this paragraph to
17 a minimum term of confinement in a county jail or a state correctional institution of
18 45 days.

19 (END)