

**1229 BATTERY BY A PERSON SUBJECT TO AN INJUNCTION —
§ 940.20(1m)**

Statutory Definition of the Crime

Section 940.20(1m) of the Criminal Code of Wisconsin is violated by a person who is subject to [a domestic abuse] [an harassment]¹ injunction and who intentionally causes bodily harm to the petitioner who sought the injunction by an act done without the consent of that person.

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following five elements were present.

Elements of the Crime That the State Must Prove

1. (Name of victim) petitioned for [a domestic abuse] [an harassment] injunction against the defendant.
2. At the time of the alleged offense, the defendant was subject to the [domestic abuse] [harassment] injunction.
3. The defendant intentionally caused bodily harm to (name of victim).

"Cause" means that the defendant's conduct was a substantial factor in producing the bodily harm.²

"Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.³

4. (Name of victim) did not consent to the bodily harm.⁴
5. The defendant knew (name of victim) petitioned for the injunction and knew that (name of victim) did not consent to the causing of bodily harm.⁵

Meaning of "Intentionally"

"Intentionally" means that the defendant had the mental purpose to cause bodily harm to another human being or was aware that the conduct was practically certain to cause bodily harm to another.⁶

Deciding About Intent and Knowledge

You cannot look into a person's mind to find intent or knowledge. Intent and knowledge must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent and knowledge.

Jury's Decision

If you are satisfied beyond a reasonable doubt that all five elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 1229 was originally published in 1997 and revised in 2005. This revision was approved by the Committee in October 2015; it corrected a statutory cross reference in footnote 1 and revised the Comment.

Battery by a person subject to an injunction, as defined in § 940.20(1m), was created by 1995 Wisconsin Act 343. [Effective date: June 4, 1996.] Subsection (a) of § 940.20(1m) addresses injunctions issued under § 813.12 - domestic abuse injunctions - and tribal court injunctions filed under § 806.247(3). Subsection (b) of § 940.20(1m) addresses injunctions issued under § 813.125 - harassment injunctions. The offense definitions in subs. (a) and (b) are otherwise the same and this instruction may be used for any of the violations.

1. While § 940.20(1m) refers to the injunction statutes by number, the Committee concluded that the instruction would be more easily understood if it used the terms "domestic abuse injunction," "harassment injunction," or "tribal injunction filed under § 806.247(3)" to describe the injunction.

Note that child abuse injunctions under § 813.122 and vulnerable adult injunctions under § 813.123 are not covered by § 940.20(1m).

2. The Committee concluded that the simple "substantial factor" definition of cause should be sufficient for most cases. Where there is evidence of more than one possible cause, something like the following might be added:

There may be more than one cause of bodily harm. The act of one person alone might produce it, or the acts of two or more persons might jointly produce it.

3. This is the definition of "bodily harm" provided in § 939.22(4).

4. Give additional instruction regarding the phrase "without consent" when the evidence warrants it. See § 939.22(48)(a)-(c).

5. The knowledge element is based on the definition of "intentionally" in § 939.23(3): ". . . the actor must have knowledge of those facts which are necessary to make his conduct criminal and which are set forth after the word intentionally."

6. See § 939.23(4) and Wis JI-Criminal 923A and 923B.