HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION CODE (HCC)

TITLE 9 – CRIMINAL CODE

SECTION 940 – CRIMES AGAINST LIFE AND BODILY SECURITY

ENACTED BY LEGISLATURE: May 5, 2015

CITE AS: 9 HCC § 940

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SUBCHAPTER I
LIFE

940.01 First-degree intentional homicide. (1) OFFENSES.

(a) Except as provided in sub. (2), whoever causes the death of another human being with intent to kill that person or another is guilty of a felony.

(b) Except as provided in sub. (2), whoever causes the death of an unborn child with intent to kill that unborn child, kill the woman who is pregnant with that unborn child or kill another is guilty of a felony.

(2) MITIGATING CIRCUMSTANCES. The following are affirmative defenses to prosecution under this section which mitigate the offense to 2nd-degree intentional homicide under s. 940.05:

(a) Adequate provocation. Death was caused under the influence of adequate provocation as defined in s. 939.44.

(b) Unnecessary defensive force. Death was caused because the actor believed he or she or another was in imminent danger of death or great bodily harm and that the force used was necessary to defend the endangered person, if either belief was unreasonable.

(c) Prevention of felony. Death was caused because the actor believed that the force used was necessary in the exercise of the privilege to prevent or terminate the commission of a felony, if that belief was unreasonable.

(d) Coercion; necessity. Death was caused in the exercise of a privilege under s. 939.45 (1).

(3) BURDEN OF PROOF. When the existence of an affirmative defense under sub. (2) has been placed in issue by the trial evidence, the Nation must prove beyond a reasonable doubt that the facts constituting the defense did not exist in order to sustain a finding of guilt under sub. (1).

940.02 First-degree reckless homicide. (1) Whoever recklessly causes the death of another human being under circumstances which show utter disregard for human life is guilty of a felony.

(1m) Whoever recklessly causes the death of an unborn child under circumstances that show utter disregard for the life of that unborn child, the woman who is pregnant with that unborn child or another is guilty of a felony.

(2) Whoever causes the death of another human being under any of the following circumstances is guilty of a felony:

(a) By manufacture, distribution or delivery, in violation of s. 961.41, of a controlled substance included in schedule I or II under ch. 961, of a controlled substance analog of a controlled substance included in schedule I or II under ch. 961 or of ketamine or flunitrazepam, if another human being uses the controlled substance or controlled substance analog and dies as a result of that use. This paragraph applies:

1. Whether the human being dies as a result of using the controlled substance or controlled substance analog by itself or with any compound, mixture, diluent or other substance mixed or combined with the controlled substance or controlled substance analog.

2. Whether or not the controlled substance or controlled substance analog is mixed or combined with any compound, mixture, diluent or other substance after the violation of s. 961.41 occurs.

3. To any distribution or delivery described in this paragraph, regardless of whether the distribution or delivery is made directly to the human being who dies. If possession of the controlled substance included in schedule I or II under ch. 961, of the controlled substance analog of the controlled substance included in schedule I or II under ch. 961 or of the ketamine or flunitrazepam is transferred more than once prior to the death as described in this paragraph, each person who distributes or delivers the controlled substance or controlled substance analog in violation of s. 961.41 is guilty under this paragraph.

(b) By administering or assisting in administering a controlled substance included in schedule I or II under ch. 961, a controlled substance analog of a controlled substance included in schedule I or II of ch. 961 or ketamine or flunitrazepam, without lawful authority to do so, to another human being and that human being dies as a result of the use of the substance. This paragraph applies whether the human being dies as a result of using the controlled substance or controlled substance analog by itself or with any compound, mixture, diluent or other substance mixed or combined with the controlled substance or controlled substance analog.

940.03 Felony murder. Whoever causes the death of another human being while committing or attempting to commit a crime specified in s. 940.19, 940.195, 940.20, 940.201, 940.203, 940.225 (1) or (2) (a), 940.30, 940.31, 943.02, 943.10 (2), 943.23 (1g), or 943.32 (2) may be imprisoned for not more than 3 years in excess of the maximum term of imprisonment provided by law for that crime or attempt up to a total term of imprisonment of 3 years.

940.04 Abortion. (1) Any person, other than the mother, who intentionally destroys the life of an unborn child is guilty of a felony.

(2) Any person, other than the mother, who does either of the following is guilty of a felony:

(a) Intentionally destroys the life of an unborn quick child; or

(b) Causes the death of the mother by an act done with intent to destroy the life of an unborn child. It is unnecessary to prove that the fetus was alive when the act so causing the mother's death was committed.

(3) This section does not apply to a therapeutic abortion which:

(a) Is performed by a physician; and

(b) Is necessary, or is advised by 2 other physicians as necessary, to save the life of the mother; and

(c) Unless an emergency prevents, is performed in a licensed maternity hospital.

(4) In this section "unborn child" means a human being from the time of conception until it is born alive.

940.05 Second-degree intentional homicide. (1) Whoever causes the death of another human being with intent to kill that person or another is guilty of a felony if:

(a) In prosecutions under s. 940.01, the Nation fails to prove beyond a reasonable doubt that the mitigating circumstances specified in s. 940.01 (2) did not exist as required by s. 940.01 (3); or

(b) The Nation concedes that it is unable to prove beyond a reasonable doubt that the mitigating circumstances specified in s. 940.01 (2) did not exist. By charging under this section, the Nation so concedes.

(2) In prosecutions under sub. (1), it is sufficient to allege and prove that the defendant caused the death of another human being with intent to kill that person or another.

(2g) Whoever causes the death of an unborn child with intent to kill that unborn child, kill the woman who is pregnant with that unborn child or kill another is guilty of a felony if:

(a) In prosecutions under s. 940.01, the Nation fails to prove beyond a reasonable doubt that the mitigating circumstances specified in s. 940.01 (2) did not exist as required by s. 940.01 (3); or

(b) The Nation concedes that it is unable to prove beyond a reasonable doubt that the mitigating circumstances specified in s. 940.01 (2) did not exist. By charging under this section, the Nation so concedes.

(2h) In prosecutions under sub. (2g), it is sufficient to allege and prove that the defendant caused the death of an unborn child with intent to kill that unborn child, kill the woman who is pregnant with that unborn child or kill another.

(3) The mitigating circumstances specified in s. 940.01 (2) are not defenses to prosecution for this offense.

940.06 Second-degree reckless homicide. (1) Whoever recklessly causes the death of another human being is guilty of a felony.
(2) Whoever recklessly causes the death of an unborn child is guilty of a felony.

940.07 Homicide resulting from negligent control of vicious animal. Whoever knowing the vicious propensities of any animal intentionally allows it to go at large or keeps it without ordinary care, if such animal, while so at large or not confined, kills any human being who has taken all the precautions which the circumstances may permit to avoid such animal, is guilty of a felony.

940.08 Homicide by negligent handling of dangerous weapon, explosives or fire. (1) Except as provided in sub. (3), whoever causes the death of another human being by the negligent operation or handling of a dangerous weapon, explosives or fire is guilty of a felony.
(2) Whoever causes the death of an unborn child by the negligent operation or handling of a dangerous weapon, explosives or fire is guilty of a felony.
(3) Subsection (1) does not apply to a health care provider acting within the scope of his or her practice or employment.

940.09 Homicide by intoxicated use of vehicle or firearm. (1) Any person who does any of the following may be penalized as provided in sub. (1c):

(a) Causes the death of another by the operation or handling of a vehicle while under the influence of an intoxicant.

(am) Causes the death of another by the operation or handling of a vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

(b) Causes the death of another by the operation or handling of a vehicle while the person has a prohibited alcohol concentration, as defined under the laws of the jurisdiction where the crime occurred.

(bm) Causes the death of another by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(c) Causes the death of an unborn child by the operation or handling of a vehicle while under the influence of an intoxicant.

(cm) Causes the death of an unborn child by the operation or handling of a vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

(d) Causes the death of an unborn child by the operation or handling of a vehicle while the person has a prohibited alcohol concentration, as defined under the laws of the jurisdiction where the crime occurred.

(e) Causes the death of an unborn child by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(1c) (a) Except as provided in par. (b), a person who violates sub. (1) is guilty of a felony.

(b) A person who violates sub. (1) is guilty of a felony if the person has one or more prior convictions, suspensions, or revocations for an operating under the influence offense..

(1d) A person who violates sub. (1) is subject to the requirements and procedures for installation of an ignition interlock device.

(1g) Any person who does any of the following is guilty of a felony:

(a) Causes the death of another by the operation or handling of a firearm or airgun while under the influence of an intoxicant.

(am) Causes the death of another by the operation or handling of a firearm or airgun while the person has a detectable amount of a restricted controlled substance in his or her blood.
(b) Causes the death of another by the operation or handling of a firearm or airgun while the person has an alcohol concentration of 0.08 or more.
(c) Causes the death of an unborn child by the operation or handling of a firearm or airgun while under the influence of an intoxicant.
(cm) Causes the death of an unborn child by the operation or handling of a firearm or airgun while the person has a detectable amount of a restricted controlled substance in his or her blood.
(d) Causes the death of an unborn child by the operation or handling of a firearm or airgun while the person has an alcohol concentration of 0.08 or more.

(1m) (a) A person may be charged with and a prosecutor may proceed upon an information based upon a violation of any combination of sub. (1) (a), (am), or (b); any combination of sub. (1) (a), (am), or (bm); any combination of sub. (1) (c), (cm), or (d); any combination of sub. (1) (c), (cm), or (e); any combination of sub. (1g) (a), (am), or (b) or; any combination of sub. (1g) (c), (cm), or (d) for acts arising out of the same incident or occurrence.
(b) If a person is charged with any of the combinations of crimes referred to in par. (a), the crimes shall be joined under the Ho-Chunk Nation Rules of Criminal Procedure § 207. If the person is found guilty of more than one of the crimes so charged for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions for operating an ATV, boat, car, truck or snowmobile under the influence. Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not require, and sub. (1g) (a), (am), (b), (c), (cm), and (d) each require proof of a fact for conviction which the others do not require.

(2) (a) In any action under this section, the defendant has a defense if he or she proves by a preponderance of the evidence that the death would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, did not have a detectable amount of a restricted controlled substance in his or her blood, or did not have an alcohol concentration described under sub. (1) (b), (bm), (d) or (e) or (1g) (b) or (d).
(b) In any action under sub. (1) (am) or (cm) or (1g) (am) or (cm) that is based on the defendant allegedly having a detectable amount of methamphetamine or gamma-hydroxybutyric acid or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors or gamma-hydroxybutyric acid or delta-9-tetrahydrocannabinol.

(3) An officer who makes an arrest for a violation of this section shall make a report of the arrest to the prosecutor.

940.10 Homicide by negligent operation of vehicle. (1) Whoever causes the death of another human being by the negligent operation or handling of a vehicle is guilty of a felony.
(2) Whoever causes the death of an unborn child by the negligent operation or handling of a vehicle is guilty of a felony.

940.11 Mutilating or hiding a corpse. (1) Whoever mutilates, disfigures or dismembers a corpse, with intent to conceal a crime or avoid apprehension, prosecution or conviction for a crime, is guilty of a felony.

(2) Whoever hides or buries a corpse, with intent to conceal a crime or avoid apprehension, prosecution, or conviction for a crime or notwithstanding s. 946.90 (2) or (3), 946.91 (2), 946.92, or 946.93 (2) or (3) with intent to collect benefits under the state or tribal assistance programs is guilty of a felony.
(3) A person may not be subject to prosecution under both this section and s. 946.47 or under both this section and s. 948.23 (2) for his or her acts regarding the same corpse.

940.12 Assisting suicide. Whoever with intent that another take his or her own life assists such person to commit suicide is guilty of a felony.

940.13 Abortion exception. No fine or imprisonment may be imposed or enforced against and no prosecution may be brought against a woman who obtains an abortion or otherwise violates any provision of any abortion statute with respect to her unborn child or fetus, and s. 939.05, 939.30 or 939.31 does not apply to a woman who obtains an abortion or otherwise violates any provision of any abortion statute with respect to her unborn child or fetus.
940.15 Abortion. (1) In this section, "viability" means that stage of fetal development when, in the medical judgment of the attending physician based on the particular facts of the case before him or her, there is a reasonable likelihood of sustained survival of the fetus outside the womb, with or without artificial support.
(2) Whoever intentionally performs an abortion after the fetus or unborn child reaches viability, as determined by reasonable medical judgment of the woman's attending physician, is guilty of a felony.
(3) Subsection (2) does not apply if the abortion is necessary to preserve the life or health of the woman, as determined by reasonable medical judgment of the woman's attending physician.
(4) Any abortion performed under sub. (3) after viability of the fetus or unborn child, as determined by reasonable medical judgment of the woman's attending physician, shall be performed in a hospital on an inpatient basis.
(5) Whoever intentionally performs an abortion and who is not a physician is guilty of a felony.
(6) Any physician who intentionally performs an abortion under sub. (3) shall use that method of abortion which, of those he or she knows to be available, is in his or her medical judgment most likely to preserve the life and health of the fetus or unborn child. Nothing in this subsection requires a physician performing an abortion to employ a method of abortion which, in his or her medical judgment based on the particular facts of the case before him or her, would increase the risk to the woman. Any physician violating this subsection is guilty of a felony.
(7) Subsections (2) to (6) and s. 939.05, 939.30 or 939.31 do not apply to a woman who obtains an abortion that is in violation of this section or otherwise violates this section with respect to her unborn child or fetus.

940.16 Partial-birth abortion. (1) In this section:
(a) "Child" means a human being from the time of fertilization until it is completely delivered from a pregnant woman.
(b) "Partial-birth abortion" means an abortion in which a person partially vaginally delivers a living child, causes the death of the partially delivered child with the intent to kill the child, and then completes the delivery of the child.

(2) Except as provided in sub. (3), whoever intentionally performs a partial-birth abortion is guilty of a felony.
(3) Subsection (2) does not apply if the partial-birth abortion is necessary to save the life of a woman whose life is endangered by a physical disorder, physical illness or physical injury, including a life-endangering physical disorder, physical illness or physical injury caused by or arising from the pregnancy itself, and if no other medical procedure would suffice for that purpose.

SUBCHAPTER II
BODILY SECURITY

940.19 Battery; substantial battery; aggravated battery. (1) Whoever causes bodily harm 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 misdemeanor.
(2) Whoever causes substantial bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a felony.
(4) Whoever causes great bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a felony.
(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 felony.
(6) Whoever intentionally causes bodily harm to another by conduct that creates a substantial risk of great bodily harm is guilty of a felony. A rebuttable presumption of conduct creating a substantial risk of great bodily harm arises:
(a) If the person harmed is 62 years of age or older; or
(b) 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.

940.195 Battery to an unborn child; substantial battery to an unborn child; aggravated battery to an unborn child. (1) Whoever causes bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a misdemeanor.
(2) Whoever causes substantial bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a felony.
(4) Whoever causes great bodily harm to an unborn child by an act done with intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a felony.
(5) Whoever causes great bodily harm to an unborn child by an act done with intent to cause great bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a felony.
(6) Whoever intentionally causes bodily harm to an unborn child by conduct that creates a substantial risk of great bodily harm is guilty of a felony.

940.20 Battery: special circumstances. (1) BATTERY BY PRISONERS. Any prisoner confined to a state prison or other tribal, federal, state, county, or municipal detention facility who

intentionally causes bodily harm or a soft tissue injury, as defined in s. 946.41 (2) (c), to an officer, employee, visitor, or another inmate of such prison or institution, without his or her consent, is guilty of a felony.

(1g) BATTERY BY CERTAIN COMMITTED PERSONS. Any person placed in a facility under laws governing sexually violent persons and who intentionally causes bodily harm to an officer, employee, agent, visitor, or other resident of the facility, without his or her consent, is guilty of a Class H felony.

(1m) BATTERY BY PERSONS SUBJECT TO CERTAIN INJUNCTIONS.

(a) Any person who is subject to a domestic abuse injunction from this Court, another tribal or state court and who intentionally causes bodily harm to the petitioner who sought the injunction by an act done without the consent of the petitioner is guilty of a felony.

(b) Any person who is subject to a harassment injunction from this Court, another tribal court or state court and who intentionally causes bodily harm to the petitioner who sought the injunction by an act done without the consent of the petitioner is guilty of a felony.

(2) BATTERY TO LAW ENFORCEMENT OFFICERS, FIRE FIGHTERS, AND COMMISSION WARDENS. Whoever intentionally causes bodily harm to a law enforcement officer or fire fighter, or to a commission warden, acting in an official capacity and the person knows or has reason to know that the victim is a law enforcement officer, fire fighter, or commission warden, by an act done without the consent of the person so injured, is guilty of a felony.

(2m) Battery to probation, extended supervision and parole agents and aftercare agents.

(a) In this subsection:

1. "Aftercare agent" means any person authorized by the department of corrections to exercise control over a juvenile on aftercare.

2. "Probation, extended supervision and parole agent" means any person authorized by the Ho-Chunk Nation Probation and Parole Office to exercise control over a probationer, parolee or person on extended supervision.

(b) Whoever intentionally causes bodily harm to a probation, extended supervision and parole agent or an aftercare agent, acting in an official capacity and the person knows or has reason to know that the victim is a probation, extended supervision and parole agent or an aftercare agent, by an act done without the consent of the person so injured, is guilty of a felony.

(3) BATTERY TO JURORS. Whoever intentionally causes bodily harm to a person who he or she knows or has reason to know is or was a grand or petit juror, and by reason of any verdict or indictment assented to by the person, without the consent of the person injured, is guilty of a felony.

(4) BATTERY TO PUBLIC OFFICERS. Whoever intentionally causes bodily harm to a public officer in order to influence the action of such officer or as a result of any action taken within an official capacity, without the consent of the person injured, is guilty of a felony.

(5) BATTERY TO TECHNICAL COLLEGE DISTRICT OR SCHOOL DISTRICT OFFICERS AND EMPLOYEES.

(a) In this subsection:

1. "School district" means a public, private or tribal school.

2. "Technical college district" means a public, private or tribal technical college.

(b) Whoever intentionally causes bodily harm to a technical college district or school district officer or employee acting in that capacity, and the person knows or has reason to know that

the victim is a technical college district or school district officer or employee, without the consent of the person so injured, is guilty of a felony.

(6) BATTERY TO PUBLIC TRANSIT VEHICLE OPERATOR, DRIVER OR PASSENGER.

(a) In this subsection, "public transit vehicle" means any vehicle used for providing transportation service to the general public.

(b) Whoever intentionally causes bodily harm to another under any of the following circumstances is guilty of a felony:

1. The harm occurs while the victim is an operator, a driver or a passenger of, in or on a public transit vehicle.

2. The harm occurs after the offender forces or directs the victim to leave a public transit vehicle.

3. The harm occurs as the offender prevents, or attempts to prevent, the victim from gaining lawful access to a public transit vehicle.

(7) BATTERY TO EMERGENCY MEDICAL CARE PROVIDERS.

(a) In this subsection:

1e. "Ambulance" means an emergency vehicle, including any motor vehicle, boat or aircraft, whether privately or publicly owned, which is designed, constructed or equipped to transport sick, disabled or injured individuals.

1g. "Emergency department" means a room or area in a hospital; meaning any building, structure, institution or place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment of and medical or surgical care for 3 or more nonrelated individuals hereinafter designated patients, suffering from illness, disease, injury or disability, whether physical or mental, and including pregnancy and regularly making available at least clinical laboratory services, and diagnostic X-ray services and treatment facilities for surgery, or obstetrical care, or other definitive medical treatment.; that is primarily used to provide emergency care, diagnosis or radiological treatment.

2. "Emergency department worker" means any of the following:

a. An employee of a hospital who works in an emergency department.

b. A health care provider, whether or not employed by a hospital, who works in an emergency department.

2g. "Emergency medical technician" means an emergency medical technician — basic, an emergency medical technician — intermediate or an emergency medical technician — paramedic.

2m. "First responder" means a person who is certified by the department as a first responder and who, as a condition of employment or as a member of an organization that provides emergency medical care before hospitalization, provides emergency medical care to a sick, disabled or injured individual before the arrival of an ambulance, but who does not provide transportation for a patient.

3. "Health care provider" means any person who is licensed, registered, permitted or certified by a state or tribal department of health services or the department of safety and professional services to provide health care services in this Nation of state.

(b) Whoever intentionally causes bodily harm to an emergency department worker, an emergency medical technician, a first responder or an ambulance driver who is acting in an official capacity and who the person knows or has reason to know is an emergency department

worker, an emergency medical technician, a first responder or an ambulance driver, by an act done without the consent of the person so injured, is guilty of a felony.

940.201 Battery or threat to witnesses. (1) In this section:

(a) "Family member" means a spouse, child, stepchild, foster child, parent, sibling, or grandchild.

(b) "Witness" has the meaning given in s. 940.41 (3).

(2) Whoever does any of the following is guilty of a felony:

(a) Intentionally causes bodily harm or threatens to cause bodily harm to a person who he or she knows or has reason to know is or was a witness by reason of the person having attended or testified as a witness and without the consent of the person harmed or threatened.

(b) Intentionally causes bodily harm or threatens to cause bodily harm to a person who he or she knows or has reason to know is a family member of a witness or a person sharing a common domicile with a witness by reason of the witness having attended or testified as a witness and without the consent of the person harmed or threatened.

940.203 Battery or threat to judge. (1) In this section:

(a) "Family member" means a parent, spouse, sibling, child, adopted child, stepchild, or foster child, dependent, aunt, uncle, niece, nephew, grandparent, grandchild or individual residing in the same home as the judge.

(b) "Judge" means a federal, state or tribal supreme court justice, court of appeals judge, circuit court judge, trial court judge, member of the traditional court, municipal judge, temporary or permanent reserve, judge or circuit, supplemental, or municipal court commissioner.

(2) Whoever intentionally causes bodily harm or threatens to cause bodily harm to the person or family member of any judge under all of the following circumstances is guilty of a felony:

(a) At the time of the act or threat, the actor knows or should have known that the victim is a judge or a member of his or her family.

(b) The judge is acting in an official capacity at the time of the act or threat or the act or threat is in response to any action taken in an official capacity.

(c) There is no consent by the person harmed or threatened.

940.205 Battery or threat to Ho-Chunk Nation employee. (1) In this section, "family member" means a parent, spouse, sibling, child, adopted child, stepchild, or foster child, dependent, aunt, uncle, niece, nephew, grandparent, grandchild or individual residing in the same home as the employee.

(2) Whoever intentionally causes bodily harm or threatens to cause bodily harm to the person or family member of any Ho-Chunk Nation official, employee or agent under all of the following circumstances is guilty of a felony:

(a) At the time of the act or threat, the actor knows or should have known that the victim is a Ho-Chunk Nation official, employee or agent or a member of his or her family.

(b) The official, employee or agent is acting in an official capacity at the time of the act or threat or the act or threat is in response to any action taken in an official capacity.

(c) There is no consent by the person harmed or threatened.

940.208 Battery to certain employees of tribes, states, counties, cities, villages, or towns. Whoever intentionally causes bodily harm to an employee of a tribe, state, county, city, village, or town under all of the following circumstances is guilty of a felony:

(1) At the time of the act, the actor knows or should know that the victim is an employee of a tribe, state, county, city, village, or town.

(2) The victim is one of the following:

(a) The victim is enforcing, or conducting an inspection for the purpose of enforcing, a tribal, 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 is in response to any such enforcement or inspection activity, which The enforcement or inspection complies with any law, ordinance, or rule, including any applicable notice requirement; or

(b) The victim is an employee of a tribe, state, county, city, village or town public safety or social services department.

(3) There is no consent by the victim.

940.21 Mayhem. Whoever, with intent to disable or disfigure another, cuts or mutilates the tongue, eye, ear, nose, lip, limb or other bodily member of another is guilty of a felony.

940.22 Sexual exploitation by therapist; duty to report.

(1) DEFINITIONS. In this section:

(a) "Department" means the department of health.

(b) "Physician" means an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the licensing authority, and holding a license.

(c) "Psychologist" means a person who practices psychology, meaning rendering to any person for a fee a psychological service involving the application of principles, methods and procedures of understanding, predicting and influencing behavior, such as the principles pertaining to learning, perception, motivation, thinking, emotions and interpersonal relationships; the methods and procedures of interviewing, counseling, psychotherapy, psychoanalysis and biofeedback; and the methods and procedures of constructing, administering and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion and motivation. The application of these principles and methods includes, but is not restricted to, all of the following:

1. Psychological diagnosis, prevention and treatment of problems in behavioral, vocational, educational, emotional, sexual, neuropsychological and mental disorders.

2. Treatment for alcohol and other substance abuse, disorders of habit and conduct, and the psychological and behavioral aspects of physical illness, accident or other disabilities.

3. Any other activity authorized by statute or by rules promulgated by the licensing authority.

(d) "Psychotherapy" means the use of learning, conditioning methods and emotional reactions in a professional relationship to assist persons to modify feelings, attitudes and behaviors which are intellectually, socially or emotionally maladjusted or ineffectual.

(e) "Record" means any document relating to the investigation, assessment and disposition of a report under this section.

(f) "Reporter" means a therapist who reports suspected sexual contact between his or her patient or client and another therapist.

(g) "Sexual contact" means any of the following:

1. Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under s. 940.19 (1):

a. Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.

b. Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person.

2. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.

3. For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.

(h) "Subject" means the therapist named in a report or record as being suspected of having sexual contact with a patient or client or who has been determined to have engaged in sexual contact with a patient or client.

(i) "Therapist" means a physician, psychologist, social worker, marriage and family therapist, professional counselor, nurse, chemical dependency counselor, member of the clergy or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.

(2) SEXUAL CONTACT PROHIBITED. Any person who is or who holds himself or herself out to be a therapist and who intentionally has sexual contact with a patient or client during any ongoing therapist-patient or therapist-client relationship, regardless of whether it occurs during any treatment, consultation, interview or examination, is guilty of a felony. Consent is not an issue in an action under this subsection.

(3) REPORTS OF SEXUAL CONTACT.

(a) If a therapist has reasonable cause to suspect that a patient or client he or she has seen in the course of professional duties is a victim of sexual contact by another therapist or a person who holds himself or herself out to be a therapist in violation of sub. (2), as soon thereafter as practicable the therapist shall ask the patient or client if he or she wants the therapist to make a report under this subsection. The therapist shall explain that the report need not identify the patient or client as the victim. If the patient or client wants the therapist to make the report, the patient or client shall provide the therapist with a written consent to the report and shall specify whether the patient's or client's identity will be included in the report.

(b) Within 30 days after a patient or client consents under par. (a) to a report, the therapist shall report the suspicion to:

1. The department, if the reporter believes the subject of the report is licensed by the state. The department shall promptly communicate the information to the appropriate examining board or affiliated credentialing board.

2. The prosecutor for the Nation in which the sexual contact is likely, in the opinion of the reporter, to have occurred.

(c) A report under this subsection shall contain only information that is necessary to identify the reporter and subject and to express the suspicion that sexual contact has occurred in violation of sub. (2). The report shall not contain information as to the identity of the alleged victim of sexual contact unless the patient or client requests under par. (a) that this information be included.

(d) Whoever intentionally violates this subsection by failing to report as required under pars. (a) to (c) is guilty of a Class A misdemeanor.

(4) CONFIDENTIALITY OF REPORTS AND RECORDS.

(a) All reports and records made from reports under sub. (3) and maintained by the department, examining boards, affiliated credentialing boards, prosecutor and other persons, officials and institutions shall be confidential and are exempt from disclosure. Information regarding the identity of a victim or alleged victim of sexual contact by a therapist shall not be disclosed by a reporter or by persons who have received or have access to a report or record unless disclosure is consented to in writing by the victim or alleged victim. The report of information under sub. (3) and the disclosure of a report or record under this subsection does not violate any person's responsibility for maintaining the confidentiality of patient health care records. Reports and records may be disclosed only to appropriate staff of a prosecutor or a law enforcement agency within this Nation for purposes of investigation or prosecution.

(b) 1. The department, a prosecutor, an examining board or an affiliated credentialing board within this Nation may exchange information from a report or record on the same subject.

2. If the department receives 2 or more reports under sub. (3) regarding the same subject, the department shall communicate information from the reports to the appropriate prosecutor and may inform the applicable reporters that another report has been received regarding the same subject.

3. If a prosecutor receives 2 or more reports under sub. (3) regarding the same subject, the prosecutor may inform the applicable reporters that another report has been received regarding the same subject.

4. After reporters receive the information under subd. 2. or 3., they may inform the applicable patients or clients that another report was received regarding the same subject.

(c) A person to whom a report or record is disclosed under this subsection may not further disclose it, except to the persons and for the purposes specified in this section.

(d) Whoever intentionally violates this subsection, or permits or encourages the unauthorized dissemination or use of information contained in reports and records made under this section, is guilty of a Class A misdemeanor.

(5) IMMUNITY FROM LIABILITY. Any person or institution participating in good faith in the making of a report or record under this section is immune from any civil or criminal liability that results by reason of the action. For the purpose of any civil or criminal action or proceeding, any person reporting under this section is presumed to be acting in good faith. The immunity provided under this subsection does not apply to liability resulting from sexual contact by a therapist with a patient or client.

940.225 Sexual assault. (1) FIRST DEGREE SEXUAL ASSAULT. Whoever does any of the following is guilty of a felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.

(b) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.

(c) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(2) SECOND DEGREE SEXUAL ASSAULT. Whoever does any of the following is guilty of a felony:

(a) Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.

(b) Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.

(c) Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such condition.

(cm) Has sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.

(d) Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.

(f) Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.

(g) Is an employee of a facility or program under s. 940.295 (2) (b), (c), (h) or (k) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program.

(h) Has sexual contact or sexual intercourse with an individual who is confined in a correctional institution if the actor is a correctional staff member. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.

(i) Has sexual contact or sexual intercourse with an individual who is on probation, parole, or extended supervision if the actor is a probation, parole, or extended supervision agent who supervises the individual, either directly or through a subordinate, in his or her capacity as a probation, parole, or extended supervision agent or who has influenced or has attempted to influence another probation, parole, or extended supervision agent's supervision of the individual. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.

(j) Is a licensee, employee, or non-client resident of an entity that provides care for children in the child welfare system or health care services and has sexual contact or sexual intercourse with a client of the entity.

(3) THIRD DEGREE SEXUAL ASSAULT. Whoever has sexual intercourse with a person without the consent of that person is guilty of a felony. Whoever has sexual contact in the manner described in sub. (5) (b) 2. or 3. with a person without the consent of that person is guilty of a felony.

(3M) FOURTH DEGREE SEXUAL ASSAULT. Except as provided in sub. (3), whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.

(4) CONSENT. "Consent", as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. Consent is not an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h), and (i). The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence, subject to if the court finds that the crime was sexually motivated, any evidence concerning the complaining witness's prior sexual conduct or opinions of the witness's prior sexual conduct and reputation as to prior sexual conduct shall not be admitted into evidence during the course of the hearing or trial, nor shall any reference to such conduct be made in the presence of the jury, except the following:

(a) Evidence of the complaining witness's past conduct with the defendant.

(b) Evidence of specific instances of sexual conduct showing the source or origin of semen, pregnancy or disease, for use in determining the degree of sexual assault or the extent of injury suffered.

(c) Evidence of prior untruthful allegations of sexual assault made by the complaining witness:

1. A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.

2. A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(5) DEFINITIONS. In this section:

(abm) "Client" means an individual who receives direct care or treatment services from an entity.

(acm) "Correctional institution" means a jail or correctional facility, , a juvenile correctional facility, or a juvenile detention facility.

(ad) "Correctional staff member" means an individual who works at a correctional institution, including a volunteer.

(ag) "Inpatient facility" means a public or private hospital or unit of a hospital which has as its primary purpose the diagnosis, treatment and rehabilitation of mental illness, developmental disability, alcoholism or drug abuse and which provides 24-hour care.

(ai) "Intoxicant" means any alcohol beverage, hazardous inhalant, controlled substance, controlled substance analog, or other drug, or any combination thereof.

(ak) "Non-client resident" means an individual who resides, or is expected to reside, at an entity, who is not a client of the entity, and who has, or is expected to have, regular, direct contact with the clients of the entity.

(am) "Patient" means any person who does any of the following:

1. Receives care or treatment from a facility or program under s. 940.295 (2) (b), (c), (h) or (k), from an employee of a facility or program or from a person providing services under contract with a facility or program.

2. Arrives at a facility or program under s. 940.295 (2) (b), (c), (h) or (k) for the purpose of receiving care or treatment from a facility or program under s. 940.295 (2) (b), (c), (h) or (k), from an employee of a facility or program under s. 940.295 (2) (b), (c), (h) or (k), or from a person providing services under contract with a facility or program under s. 940.295 (2) (b), (c), (h) or (k).

(ar) "Resident" means any person who resides in a facility under s. 940.295 (2) (b), (c), (h) or (k).

(b) "Sexual contact" means any of the following:

1. Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading; or for the purpose of sexually humiliating the complainant or sexually arousing or gratifying the defendant or if the touching contains the elements of actual or attempted battery under s. 940.19 (1):

a. Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts.

b. Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person.

2. Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if that ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.

3. For the purpose of sexually degrading or humiliating the complainant or sexually arousing or gratifying the defendant, intentionally causing the complainant to ejaculate or emit urine or feces on any part of the defendant's body, whether clothed or unclothed.

(c) "Sexual intercourse" includes the meaning assigned under s. 939.22 (36) as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

(d) "State treatment facility" has the meaning designated in means any of the institutions operated by the department for the purpose of providing diagnosis, care or treatment for mental or emotional disturbance, developmental disability, alcoholism or drug dependency and includes but is not limited to mental health institutes.

(6) MARRIAGE NOT A BAR TO PROSECUTION. A defendant shall not be presumed to be incapable of violating this section because of marriage to the complainant.

(7) DEATH OF VICTIM. This section applies whether a victim is dead or alive at the time of the sexual contact or sexual intercourse.

940.23 Reckless injury. (1) FIRST-DEGREE RECKLESS INJURY.

(a) Whoever recklessly causes great bodily harm to another human being under circumstances which show utter disregard for human life is guilty of a felony.

(b) Whoever recklessly causes great bodily harm to an unborn child under circumstances that show utter disregard for the life of that unborn child, the woman who is pregnant with that unborn child or another is guilty of a felony.

(2) SECOND-DEGREE RECKLESS INJURY.

(a) Whoever recklessly causes great bodily harm to another human being is guilty of a felony.

(b) Whoever recklessly causes great bodily harm to an unborn child is guilty of a felony.

940.235 Strangulation and suffocation. (1) Whoever intentionally impedes the normal breathing or circulation of blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person is guilty of a felony.

(2) Whoever violates sub. (1) is guilty of a felony if the actor has a previous conviction under this section or a previous conviction for a violent crime, as defined in s. 939.632 (1) (e) 1.

940.24 Injury by negligent handling of dangerous weapon, explosives or fire. (1) Except as provided in sub. (3), whoever causes bodily harm to another by the negligent operation or handling of a dangerous weapon, explosives or fire is guilty of a felony.

(2) Whoever causes bodily harm to an unborn child by the negligent operation or handling of a dangerous weapon, explosives or fire is guilty of a felony.

(3) Subsection (1) does not apply to a health care provider acting within the scope of his or her practice or employment.

940.25 Injury by intoxicated use of a vehicle. (1) Any person who does any of the following is guilty of a felony:

(a) Causes great bodily harm to another human being by the operation of a vehicle while under the influence of an intoxicant.

(am) Causes great bodily harm to another human being by the operation of a vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

(b) Causes great bodily harm to another human being by the operation of a vehicle while the person has a prohibited alcohol concentration, as defined under the laws of the jurisdiction where the crime occurred.

(bm) Causes great bodily harm to another human being by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(c) Causes great bodily harm to an unborn child by the operation of a vehicle while under the influence of an intoxicant.

(cm) Causes great bodily harm to an unborn child by the operation of a vehicle while the person has a detectable amount of a restricted controlled substance in his or her blood.

(d) Causes great bodily harm to an unborn child by the operation of a vehicle while the person has a prohibited alcohol concentration, under the laws of the jurisdiction where the crime occurred.

(e) Causes great bodily harm to an unborn child by the operation of a commercial motor vehicle while the person has an alcohol concentration of 0.04 or more but less than 0.08.

(1d) A person who violates sub. (1) is subject to the requirements and procedures for installation of an ignition interlock device.

(1m) (a) A person may be charged with and a prosecutor may proceed upon an information based upon a violation of any combination of sub. (1) (a), (am), or (b); any combination of sub. (1)

(a), (am), or (bm); any combination of sub. (1) (c), (cm), or (d); or any combination of sub. (1) (c), (cm), or (e) for acts arising out of the same incident or occurrence.

(b) If a person is charged in an information with any of the combinations of crimes referred to in par. (a), the crimes shall be joined under the Ho-Chunk Nation Rules of Criminal Procedure. If the person is found guilty of more than one of the crimes so charged for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing and for purposes of counting convictions for operating a ATV, boat, car, truck or snowmobile under the influence. Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e) each require proof of a fact for conviction which the others do not require.

(2) (a) The defendant has a defense if he or she proves by a preponderance of the evidence that the great bodily harm would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant, did not have a detectable amount of a restricted controlled substance in his or her blood, or did not have an alcohol concentration described under sub. (1) (b), (bm), (d) or (e).

(b) In any action under this section that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

(3) An officer who makes an arrest for a violation of this section shall make a report of the arrest to the prosecutor.

940.285 Abuse of individuals at risk. (1) DEFINITIONS. In this section:

(ag) "Abuse" means any of the following:

1. Physical abuse means the intentional or reckless infliction of bodily harm.

2. Emotional abuse means language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten frighten, or otherwise harass the individual to whom the conduct or language is directed.

3. Sexual abuse means abuse that consists of any kinds of non-consensual sexual contact, including unwanted touching, sexual assault, and battery.

4. Treatment without consent means the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance.

5. Unreasonable confinement or restraint includes the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining devices, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices in entities regulated by the department if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint.

6. Deprivation of a basic need for food, shelter, clothing, or personal or health care, including deprivation resulting from the failure to provide or arrange for a basic need by a person who has assumed responsibility for meeting the need voluntarily or by contract, agreement, or court order.

(am) "Adult at risk" means any adult 18-59 who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experience, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or exploitation.

(dc) "Elder adult at risk" means any adult 60 or over who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experience, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or exploitation.

(dg) "Individual at risk" means an elder adult at risk or an adult at risk.

(dm) "Recklessly" means conduct that creates a situation of unreasonable risk of harm and demonstrates a conscious disregard for the safety of the vulnerable adult.

(1m) EXCEPTION. Nothing in this section may be construed to mean that an individual at risk is abused solely because he or she consistently relies upon treatment by spiritual means through prayer for healing, in lieu of medical care, in accordance with his or her religious tradition.

(2) ABUSE; PENALTIES.

(a) Any person, other than a person in charge of or employed in a facility under s. 940.29 or in a facility or program under s. 940.295 (2), who does any of the following may be penalized under par. (b):

1. Intentionally subjects an individual at risk to abuse.
2. Recklessly subjects an individual at risk to abuse.
3. Negligently subjects an individual at risk to abuse.

(b) 1g. Any person violating par. (a) 1. or 2. under circumstances that cause death is guilty of a felony. Any person violating par. (a) 3. under circumstances that cause death is guilty of a felony.

1m. Any person violating par. (a) under circumstances that cause great bodily harm is guilty of a felony.

1r. Any person violating par. (a) 1. under circumstances that are likely to cause great bodily harm is guilty of a felony. Any person violating par. (a) 2. or 3. under circumstances that are likely to cause great bodily harm is guilty of a felony.

2. Any person violating par. (a) 1. under circumstances that cause bodily harm is guilty of a felony. Any person violating par. (a) 1. under circumstances that are likely to cause bodily harm is guilty of a felony.

4. Any person violating par. (a) 2. or 3. under circumstances that cause or are likely to cause bodily harm is guilty of a misdemeanor.

5. Any person violating par. (a) 1., 2. or 3. under circumstances not causing and not likely to cause bodily harm is guilty of a misdemeanor.

940.29 Abuse of residents of penal facilities. Any person in charge of or employed in a penal or correctional institution or other place of confinement who abuses, neglects or ill-treats any person confined in or a resident of any such institution or place or who knowingly permits another person to do so is guilty of a felony.

940.291 Law enforcement officer; failure to render aid. (1) Any peace officer, while acting in the course of employment or under the authority of employment, who intentionally fails to render or make arrangements for any necessary first aid for any person in his or her actual custody is guilty of a Class A misdemeanor if bodily harm results from the failure. This subsection applies whether the custody is lawful or unlawful and whether the custody is actual or constructive. A violation for intentionally failing to render first aid under this subsection applies only to first aid which the officer has the knowledge and ability to render.
(2) Any peace officer who knowingly permits another person to violate sub. (1), while acting in the course of employment or under the authority of employment, is guilty of a misdemeanor.

940.295 Abuse and neglect of patients and residents. (1) DEFINITIONS. In this section:
(ad) "Abuse" means any of the following:
1. Physical abuse means the intentional or reckless infliction of bodily harm.
2. Emotional abuse means language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed.
3. Sexual abuse means a violation of s. 940.225 (1), (2), (3), or (3m).
4. Treatment without consent means the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance.
5. Unreasonable confinement or restraint includes the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining devices, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices in entities regulated by the department if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint.
(ag) "Adult at risk" means any adult 18-59 who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experience, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or exploitation.
(am) "Adult family home" means one of the following and does not include a place that is specified in sub. (c) 1. to 4., or, 6.:
1. A private residence to which all of the following apply:
a. Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, or if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4, or more adults or children if all of the adults or all of the children are siblings.
b. The private residence was licensed as a home for the care of the adults at least 12 months before any of the adults attained 18 years of age.

2. A place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident.

(b) "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

(c) "Community-based residential facility" "Community-based residential facility" means a place where 5 or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board but that include no more than 3 hours of nursing care per week per resident. "Community-based residential facility" does not include any of the following:

1. A convent or facility owned or operated by members of a religious order exclusively for the reception and care or treatment of members of that order.

2. A facility or private home that provides care, treatment, and services only for victims of domestic abuse, and their children.

3. A shelter facility means a temporary place of lodging for homeless individuals or families.

4. A place that provides lodging for individuals and in which all of the following conditions are met:

a. Each lodged individual is able to exit the place under emergency conditions without the assistance of another individual.

b. No lodged individual receives from the owner, manager or operator of the place or the owner's, manager's or operator's agent or employee any of the following:

i. Personal care, supervision or treatment, or management, control or supervision of prescription medications.

ii. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.

5. An adult family home.

6. A residential care apartment complex.

7. A private residence that is the home to adults who independently arrange for and receive care, treatment, or services for themselves from a person or agency that has no authority to exercise direction or control over the residence.

(cr) "Elder adult at risk" means any adult 60 or over who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experience, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or exploitation.

(d) "Foster home" means any facility that is operated by a person required to be licensed by a tribe, state or county and that provides care and maintenance for no more than 4 children or, if necessary to enable a sibling group to remain together, for no more than 6 children or, if the department promulgates rules permitting a different number of children, for the number of children permitted under those rules.

(e) "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.

(f) "Group home" means any facility operated by a person required to be licensed by a tribe, state or county for the care and maintenance of 5 to 8 children.

(g) "Home health agency" means an organization that:

1. Primarily provides skilled nursing and other therapeutic services;

2. Has policies established by a professional group including at least one physician and at least one registered nurse to govern services, and provides for supervision of these services by a physician or a registered nurse; and

3. Maintains clinical records on all patients.

(h) "Hospice" means any of the following:

1. An organization that primarily provides palliative care and supportive care to an individual with terminal illness where he or she lives or stays and, if necessary to meet the needs of an individual with terminal illness, arranges for or provides short-term inpatient care and treatment or provides respite care.

2. A program, within an organization, that primarily provides palliative care and supportive care to an individual with terminal illness where he or she lives or stays, that uses designated staff time and facility services, that is distinct from other programs of care provided, and, if necessary to meet the needs of an individual with terminal illness, that arranges for or provides short-term inpatient care and treatment or respite care.

3. A place, including a freestanding structure or a separate part of a structure in which other services are provided, that primarily provides palliative and supportive care and a place of residence to individuals with terminal illness and provides or arranges for short-term inpatient care as needed.

(hr) "Individual at risk" means an elder adult at risk or an adult at risk.

(i) "Inpatient health care facility" means any hospital, nursing home, county home, county mental hospital or other place licensed or approved by a state but does not include community-based residential facilities.

(k) "Neglect" means the failure of a caregiver, as evidenced by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual, including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual's physical or mental health. "Neglect" does not include a decision that is made to not seek medical care for an individual, if that decision is consistent with the individual's previously executed declaration or do-not-resuscitate order, a power of attorney for health care, or as otherwise authorized by law.

(km) "Negligence" means an act, omission, or course of conduct that the actor should realize creates a substantial and unreasonable risk of death, great bodily harm, or bodily harm to another person.

(l) "Patient" means any person who does any of the following:

1. Receives care or treatment from a facility or program under sub. (2), from an employee of a facility or program or from a person providing services under contract with a facility or program.

2. Arrives at a facility or program under sub. (2) for the purpose of receiving care or treatment from a facility or program under sub. (2), from an employee of a facility or

program under sub. (2), or from a person providing services under contract with a facility or program under sub. (2).

(o) "Recklessly" means conduct that creates a situation of unreasonable risk of death or harm to and demonstrates a conscious disregard for the safety of the patient or resident.

(p) "Resident" means any person who resides in a facility under sub. (2).

(r) "State treatment facility" means any of the institutions operated by a state for the purpose of providing diagnosis, care or treatment for mental or emotional disturbance, developmental disability, alcoholism or drug dependency and includes but is not limited to mental health institutes.

(s) "Treatment facility" means those psychological, educational, social, chemical, medical or somatic techniques designed to bring about rehabilitation of a mentally ill, alcoholic, drug dependent or developmentally disabled person.

(2) APPLICABILITY. This section applies to any of the following types of facilities or programs:

(a) An adult day care center.

(b) An adult family home.

(c) A community-based residential facility.

(d) A foster home.

(e) A group home.

(f) A home health agency.

(g) A hospice.

(h) An inpatient health care facility.

(i) A program offering community services and facilities for the prevention or amelioration of mental disabilities, including but not limited to mental illness, developmental disabilities, alcoholism and drug abuse.

(j) The Wisconsin Educational Services Program for the Deaf and Hard of Hearing and the Wisconsin Center for the Blind and Visually Impaired

(k) A state treatment facility.

(L) A treatment facility.

(m) A residential care center for children and youth operated by a child welfare agency licensed by a tribe or state or an institution operated by a public agency for the care of neglected, dependent, or delinquent children.

(n) Any other health facility or care-related facility or home, whether publicly or privately owned.

(3) ABUSE AND NEGLECT; PENALTIES.

(a) Any person in charge of or employed in any facility or program under sub. (2) who does any of the following, or who knowingly permits another person to do so, may be penalized under par. (b):

1. Intentionally abuses or intentionally neglects a patient or resident.
2. Recklessly abuses or recklessly neglects a patient or resident.
3. Except as provided in par. (am), abuses, with negligence, or neglects a patient or a resident.

(am) Paragraph (a) 3. does not apply to a health care provider acting in the scope of his or her practice or employment who commits an act or omission of mere inefficiency, unsatisfactory conduct, or failure in good performance as the result of inability, incapacity, inadvertency, ordinary negligence, or good faith error in judgment or discretion.

(b) 1g. Any person violating par. (a) 1. or 2. under circumstances that cause death to an individual at risk is guilty of a felony. Any person violating par. (a) 3. under circumstances that cause death to an individual at risk is guilty of a felony.

1m. Any person violating par. (a) under circumstances that cause great bodily harm to an individual at risk is guilty of a felony.

1r. Except as provided in subd. 1m., any person violating par. (a) 1. under circumstances that cause great bodily harm is guilty of a felony. Any person violating par. (a) 1. under circumstances that are likely to cause great bodily harm is guilty of a felony.

2. Any person violating par. (a) 1. under circumstances that cause bodily harm is guilty of a felony. Any person violating par. (a) 1. under circumstances that are likely to cause bodily harm is guilty of a felony.

3. Except as provided in subd. 1m., any person violating par. (a) 2. or 3. under circumstances that cause great bodily harm is guilty of a felony. Any person violating par. (a) 2. or 3. under circumstances that are likely to cause great bodily harm is guilty of a felony.

4. Any person violating par. (a) 2. or 3. under circumstances that cause or are likely to cause bodily harm is guilty of a misdemeanor.

5. Any person violating par. (a) 1., 2. or 3. under circumstances not causing and not likely to cause bodily harm is guilty of a misdemeanor.

940.30 False imprisonment. Whoever intentionally confines or restrains another without the person's consent and with knowledge that he or she has no lawful authority to do so is guilty of a felony.

940.302 Human trafficking. (1) In this section:

(a) "Commercial sex act" means any of the following for which anything of value is given to, promised, or received, directly or indirectly, by any person:

1. Sexual contact.
2. Sexual intercourse.
3. Except as provided in sub. (2) (c), any of the following:
   a. Sexually explicit performance.
   b. Any other conduct done for the purpose of sexual humiliation, degradation, arousal, or gratification.

(b) "Debt bondage" means the condition of a debtor arising from the debtor's pledge of services as a security for debt if the reasonable value of those services is not applied toward repaying the debt or if the length and nature of the services are not defined.

(c) "Services" means activities performed by one individual at the request, under the supervision, or for the benefit of another person.

(d) "Trafficking" means recruiting, enticing, harboring, transporting, providing, or obtaining, or attempting to recruit, entice, harbor, transport, provide, or obtain, an individual.

(2) (a) Except as provided in s. 948.051, whoever knowingly engages in trafficking is guilty of a felony if all of the following apply:

1. One of the following applies:
   a. The trafficking is for the purposes of labor or services.
   b. The trafficking is for the purposes of a commercial sex act.

2. The trafficking is done by any of the following:
a. Causing or threatening to cause bodily harm to any individual.
b. Causing or threatening to cause financial harm to any individual.
c. Restraining or threatening to restrain any individual.
d. Violating or threatening to violate a law.
e. Destroying, concealing, removing, confiscating, or possessing, or threatening to destroy, conceal, remove, confiscate, or possess, any actual or purported passport or any other actual or purported official identification document of any individual.
f. Extortion.
g. Fraud or deception.
h. Debt bondage.
i. Controlling or threatening to control any individual's access to an addictive controlled substance.
j. Using any scheme, pattern, or other means to directly or indirectly coerce, threaten, or intimidate any individual.
k. Using or threatening to use force or violence on any individual.
L. Causing or threatening to cause any individual to do any act against the individual's will or without the individual's consent.

(b) Whoever benefits in any manner from a violation of par. (a) is guilty of a felony if the person knows or reasonably should have known that the benefits come from or are derived from an act or scheme described in par. (a).

(c) Whoever knowingly receives compensation from the earnings of debt bondage, a prostitute, or a commercial sex act, as described in sub. (1) (a) 1. and 2., is guilty of a felony.

(3) Any person who incurs an injury or death as a result of a violation of sub. (2) may bring a civil action against the person who committed the violation. In addition to actual damages, the court may award punitive damages to the injured party, not to exceed treble the amount of actual damages incurred, and reasonable attorney fees.

940.305 Taking hostages. (1) Except as provided in sub. (2), whoever by force or threat of imminent force seizes, confines or restrains a person without the person's consent and with the intent to use the person as a hostage in order to influence a person to perform or not to perform some action demanded by the actor is guilty of a felony.

(2) Whoever commits a violation specified under sub. (1) is guilty of a felony if, before the time of the actor's arrest, each person who is held as a hostage is released without bodily harm.

940.31 Kidnapping. (1) Whoever does any of the following is guilty of a felony:

(a) By force or threat of imminent force carries another from one place to another without his or her consent and with intent to cause him or her to be secretly confined or imprisoned or to be carried out of this jurisdiction or to be held to service against his or her will; or

(b) By force or threat of imminent force seizes or confines another without his or her consent and with intent to cause him or her to be secretly confined or imprisoned or to be carried out of this jurisdiction or to be held to service against his or her will; or

(c) By deceit induces another to go from one place to another with intent to cause him or her to be secretly confined or imprisoned or to be carried out of this jurisdiction or to be held to service against his or her will.

(2) (a) Except as provided in par. (b), whoever violates sub. (1) with intent to cause another to transfer property in order to obtain the release of the victim is guilty of a felony.

(b) Whoever violates sub. (1) with intent to cause another to transfer property in order to obtain the release of the victim is guilty of a felony if the victim is released without permanent physical injury prior to the time the first witness is sworn at the trial.

940.32 Stalking. (1) In this section:

(a) "Course of conduct" means a series of 2 or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following:

1. Maintaining a visual or physical proximity to the victim.
2. Approaching or confronting the victim.
3. Appearing at the victim's workplace or contacting the victim's employer or coworkers.
4. Appearing at the victim's home or contacting the victim's neighbors.
5. Entering property owned, leased, or occupied by the victim.
6. Contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues.

6a. Contacting the victim by electronic devices or means.

6m. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.

7. Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim.
8. Placing an object on or delivering an object to property owned, leased, or occupied by the victim.
9. Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.
10. Causing a person to engage in any of the acts described in subds. 1. to 9.

(am) "Domestic abuse" means any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver's care, by an adult against his or her adult former spouse, by an adult against an adult with whom the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of s. 940.225 (1), (2) or (3).
4. A violation of s. 940.32.
5. A violation of s. 943.01, involving property that belongs to the individual.
6. A threat to engage in the conduct under subd. 1., 2., 3., 4., or 5.

(ap) "Domestic abuse offense" means an act of domestic abuse that constitutes a crime.

(c) "Labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(cb) "Member of a family" means a spouse, parent, child, sibling, or any other person who is related by blood or adoption to another.

(cd) "Member of a household" means a person who regularly resides in the household of another or who within the previous 6 months regularly resided in the household of another.

(cg) "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(cr) "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes, optical disks, and any other medium on which electronically generated or stored data is recorded or preserved. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

(d) "Suffer serious emotional distress" means to feel terrified, intimidated, threatened, harassed, or tormented.

(2) Whoever meets all of the following criteria is guilty of a felony:

(a) The actor intentionally engages in a course of conduct directed at a specific person that would cause a reasonable person under the same circumstances to suffer serious emotional distress or to fear bodily injury to or the death of himself or herself or a member of his or her family or household.

(b) The actor knows or should know that at least one of the acts that constitute the course of conduct will cause the specific person to suffer serious emotional distress or place the specific person in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household.

(c) The actor's acts cause the specific person to suffer serious emotional distress or induce fear in the specific person of bodily injury to or the death of himself or herself or a member of his or her family or household.

(2e) Whoever meets all of the following criteria is guilty of a felony:

(a) After having been convicted of sexual assault under s. 940.225, 948.02, 948.025, or 948.085 or a domestic abuse offense, the actor engages in any of the acts listed in sub. (1) (a) 1. to 10., if the act is directed at the victim of the sexual assault or the domestic abuse offense.

(b) The actor knows or should know that the act will cause the specific person to suffer serious emotional distress or place the specific person in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household.

(c) The actor's act causes the specific person to suffer serious emotional distress or induces fear in the specific person of bodily injury to or the death of himself or herself or a member of his or her family or household.

(2m) Whoever violates sub. (2) is guilty of a felony if any of the following applies:

(a) The actor has a previous conviction for a violent crime, as defined in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013 (1r), (1t), (1v), or (1x).

(b) The actor has a previous conviction for a crime, the victim of that crime is the victim of the present violation of sub. (2), and the present violation occurs within 7 years after the prior conviction.

(c) The actor intentionally gains access or causes another person to gain access to a record in electronic format that contains personally identifiable information regarding the victim in order to facilitate the violation.

(d) The person violates provisions of the Rules of Criminal Procedure relating to the interception and disclosure of wire, electronic or oral communications or the installation or use of a pen register or a trap and trace device without first obtaining a court order.

(e) The victim is under the age of 18 years at the time of the violation.

(3) Whoever violates sub. (2) is guilty of a felony if any of the following applies:

(a) The act results in bodily harm to the victim or a member of the victim's family or household.

(b) The actor has a previous conviction for a violent crime, as defined in s. 939.632 (1) (e) 1., or a previous conviction under this section or s. 947.013 (1r), (1t), (1v) or (1x), the victim of that crime is the victim of the present violation of sub. (2), and the present violation occurs within 7 years after the prior conviction.

(c) The actor uses a dangerous weapon in carrying out any of the acts listed in sub. (1) (a) 1. to 9.

(3m) A prosecutor need not show that a victim received or will receive treatment from a mental health professional in order to prove that the victim suffered serious emotional distress under sub. (2) (c) or (2e) (c).

(4) **(a)** This section does not apply to conduct that is or acts that are protected by the person's right to freedom of speech or to peaceably assemble with others under the Ho-Chunk Nation Constitution, including, but not limited to, any of the following:

1. Giving publicity to and obtaining or communicating information regarding any subject, whether by advertising, speaking or patrolling any public street or any place where any person or persons may lawfully be.
2. Assembling peaceably.
3. Peaceful picketing or patrolling.

(b) Paragraph (a) does not limit the activities that may be considered to serve a legitimate purpose under this section.

(5) This section does not apply to conduct arising out of or in connection with a labor dispute.

(6) The provisions of this statute are severable. If any provision of this statute is invalid or if any application thereof is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

940.34 Duty to aid victim or report crime. (1)

(a) Whoever violates sub. (2) (a) is guilty of a Class C misdemeanor.

(b) Whoever violates sub. (2) (b) is guilty of a Class C misdemeanor.

(c) Whoever violates sub. (2) (c) is guilty of a Class C misdemeanor.

(2) **(a)** Any person who knows that a crime is being committed and that a victim is exposed to bodily harm shall summon law enforcement officers or other assistance or shall provide assistance to the victim.

(b) Any person licensed as a private detective or granted a private security permit who has reasonable grounds to believe that a crime is being committed or has been committed shall notify promptly an appropriate law enforcement agency of the facts which form the basis for this belief.

(c) 1. In this paragraph, "unlicensed private security person" means a private police, guard or any person who stands watch for security purposes,, who is exempt from the permit and licensure requirements.

2. Any unlicensed private security person who has reasonable grounds to believe that a crime is being committed or has been committed shall notify promptly an appropriate law enforcement agency of the facts which form the basis for this belief.

(d) A person need not comply with this subsection if any of the following apply:

1. Compliance would place him or her in danger.

2. Compliance would interfere with duties the person owes to others.

3. In the circumstances described under par. (a), assistance is being summoned or provided by others.

4. In the circumstances described under par. (b) or (c), the crime or alleged crime has been reported to an appropriate law enforcement agency by others.

(2m) If a person is subject to sub. (2) (b) or (c), the person need not comply with sub. (2) (b) or (c) until after he or she has summoned or provided assistance to a victim.

(3) If a person renders emergency care for a victim, they shall be immune from civil liability, except if they are a trained emergency health care provider and are rendering emergency services in the scope of their employment.. Any person who provides other reasonable assistance under this section is immune from civil liability for his or her acts or omissions in providing the assistance. This immunity does not apply if the person receives or expects to receive compensation for providing the assistance.

940.41 Definitions in ss. 940.42 to 940.49: (1g) "Law enforcement agency" means a governmental unit of one or more persons employed full time by a tribe or a state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing tribal laws, state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(1r) "Malice" or "maliciously" means an intent to vex, annoy or injure in any way another person or to thwart or interfere in any manner with the orderly administration of justice.

(2) "Victim" means any natural person against whom any crime as defined in s. 939.12 or under the laws of the United States is being or has been perpetrated or attempted in this Nation.

(3) "Witness" means any natural person who has been or is expected to be summoned to testify; who by reason of having relevant information is subject to call or likely to be called as a witness, whether or not any action or proceeding has as yet been commenced; whose declaration under oath is received as evidence for any purpose; who has provided information concerning any crime to any peace officer or prosecutor; who has provided information concerning a crime to any employee or agent of a law enforcement agency using a crime reporting telephone hotline or other telephone

number provided by the law enforcement agency; or who has been served with a subpoena issued under the authority of any Ho-Chunk Nation Court, state court or of the United States.

940.42 Intimidation of witnesses; misdemeanor. Except as provided in s. 940.43, whoever knowingly and maliciously prevents or dissuades, or who attempts to so prevent or dissuade any witness from attending or giving testimony at any trial, proceeding or inquiry authorized by law, is guilty of a Class A misdemeanor.

940.43 Intimidation of witnesses; felony. Whoever violates s. 940.42 under any of the following circumstances is guilty of a felony:
(1) Where the act is accompanied by force or violence or attempted force or violence upon the witness, or the spouse, child, stepchild, foster child, parent, sibling, or grandchild of the witness, or any person sharing a common domicile with the witness.
(2) Where the act is accompanied by injury or damage to the real or personal property of any person covered under sub. (1).
(3) Where the act is accompanied by any express or implied threat of force, violence, injury or damage described in sub. (1) or (2).
(4) Where the act is in furtherance of any conspiracy.
(5) Where the act is committed by any person who has suffered any prior conviction for any violation under s. 943.30, ss. 940.42 to 940.45, or any federal statute or statute of any other jurisdiction which, if the act prosecuted was committed in this Nation, would be a violation under ss. 940.42 to 940.45.
(6) Where the act is committed by any person for monetary gain or for any other consideration acting on the request of any other person. All parties to the transactions are guilty under this section.
(7) Where the act is committed by a person who is charged with a felony in connection with a trial, proceeding, or inquiry for that felony.

940.44 Intimidation of victims; misdemeanor. Except as provided in s. 940.45, whoever knowingly and maliciously prevents or dissuades, or who attempts to so prevent or dissuade, another person who has been the victim of any crime or who is acting on behalf of the victim from doing any of the following is guilty of a Class A misdemeanor:
(1) Making any report of the victimization to any peace officer or tribal, state, local or federal law enforcement or prosecuting agency, or to any judge.
(2) Causing a complaint, indictment or information to be sought and prosecuted and assisting in the prosecution thereof.
(3) Arresting or causing or seeking the arrest of any person in connection with the victimization.

940.45 Intimidation of victims; felony. Whoever violates s. 940.44 under any of the following circumstances is guilty of a felony:
(1) Where the act is accompanied by force or violence or attempted force or violence upon the victim, or the spouse, child, stepchild, foster child, parent, sibling, or grandchild of the victim, or any person sharing a common domicile with the victim.
(2) Where the act is accompanied by injury or damage to the real or personal property of any person covered under sub. (1).

(3) Where the act is accompanied by any express or implied threat of force, violence, injury or damage described in sub. (1) or (2).
(4) Where the act is in furtherance of any conspiracy.
(5) Where the act is committed by any person who has suffered any prior conviction for any violation under s. 943.30, 1979 stats., ss. 940.42 to 940.45, or any federal statute or statute of any other tribe or state which, if the act prosecuted was committed in this jurisdiction, would be a violation under ss. 940.42 to 940.45.
(6) Where the act is committed by any person for monetary gain or for any other consideration acting on the request of any other person. All parties to the transactions are guilty under this section.

940.46 Attempt prosecuted as completed act. Whoever attempts the commission of any act prohibited under ss. 940.42 to 940.45 is guilty of the offense attempted without regard to the success or failure of the attempt. The fact that no person was injured physically or in fact intimidated is not a defense against any prosecution under ss. 940.42 to 940.45.

940.47 Court orders. Any court with jurisdiction over any criminal matter, upon substantial evidence, which may include hearsay or the declaration of the prosecutor, that knowing and malicious prevention or dissuasion of any person who is a victim or who is a witness has occurred or is reasonably likely to occur, may issue orders including but not limited to any of the following:
(1) An order that a defendant not violate ss. 940.42 to 940.45.
(2) An order that a person before the court other than a defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of the court, not violate ss. 940.42 to 940.45.
(3) An order that any person described in sub. (1) or (2) maintain a prescribed geographic distance from any specified witness or victim.
(4) An order that any person described in sub. (1) or (2) have no communication with any specified witness or any victim, except through an attorney under such reasonable restrictions as the court may impose.

940.48 Violation of court orders. Whoever violates an order issued under s. 940.47 may be punished as follows:
(1) If applicable, the person may be prosecuted under ss. 940.42 to 940.45.
(2) As a contempt of court. A finding of contempt is not a bar to prosecution under ss. 940.42 to 940.45, but:
(a) Any person who commits a contempt of court is entitled to credit for any punishment imposed therefor against any sentence imposed on conviction under ss. 940.42 to 940.45; and
(b) Any conviction or acquittal for any substantive offense under ss. 940.42 to 940.45 is a bar to subsequent punishment for contempt arising out of the same act.
(3) By the revocation of any form of pretrial release or forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody. After hearing and on substantial evidence, the revocation may be made whether the violation of order complained of has been committed by the defendant personally or was caused or encouraged to have been committed by the defendant.

940.49 Pretrial release. Any pretrial release of any defendant whether on bail or under any other form of recognizance shall be deemed to include a condition that the defendant neither do, nor cause to be done, nor permit to be done on his or her behalf, any act proscribed by ss. 940.42 to 940.45 and any willful violation of the condition is subject to punishment as prescribed in s. 940.48 (3) whether or not the defendant was the subject of an order under s. 940.47.

Legislative History:

12/17/13	Legislature established the Criminal Code Workgroup through Resolution 12-17-13C.
12/11/14	The Criminal Code Workgroup presented the Criminal Code to the Administration Committee at which time it was referred to the full Legislature to be placed out for 45 Day Public Comment.
01/06/15	Legislature placed the Criminal Code out for 45 Day Public Comment by Resolution 01-06-15B.
03/17/15	Legislature placed the Criminal Code out for an additional 45 Day Public Comment by Resolution 03-17-15K.
05/05/15	Legislature enacted the Criminal Code through Resolution 05-05-15P.
05/17/16	Technical corrections made in accordance with Section 45 of the Legislative Organization Act (2 HCC § 11).