

1195 ASSISTING SUICIDE — § 940.12**Statutory Definition of the Crime**

Assisting suicide, as defined in § 940.12 of the Criminal Code of Wisconsin, is committed by one who with intent that another take his own life assists that person to commit suicide.

State's Burden of Proof

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

Elements of the Crime That the State Must Prove

1. (Name of deceased) committed suicide.¹

The term "suicide" means the voluntary and intentional taking of one's own life.²

2. The defendant assisted (name of deceased) in committing suicide.

"Assisted" means that the defendant in some method or manner helped or aided (name of deceased) to commit suicide.³ It is not necessary that the defendant was at the scene of the suicide at the time it occurred.⁴

3. The defendant gave assistance to (name of deceased) with intent that (name of deceased) take his own life.

"With intent that" means that the defendant had the purpose that (name of deceased) commit suicide or that the defendant was aware that (his) (her) conduct was practically certain to cause (name of deceased) to commit suicide.⁵

Deciding About Intent

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

Jury's Decision

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

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

COMMENT

Wis JI-Criminal 1195 was originally published in 1974 and revised in 1977 and 1991. This revision was approved by the Committee in April 2006 and involved adoption of a new format and nonsubstantive changes to the text.

An "assisting suicide" statute from the State of Washington was upheld against a constitutional challenge in Washington v. Glucksberg, 521 U.S. 702 (1997). The court found no constitutional basis for a right to commit suicide or, by implication, to assistance in doing so.

1. Assisting an unsuccessful attempt at suicide would be punishable under the general attempt section, Wis. Stat. § 939.32. See Platz, "The Criminal Code," 1956 Wis. L. Rev. 350, 371 (1956).

2. Bisenius v. Karns, 42 Wis.2d 42, 52, 165 N.W.2d 377 (1969).

3. See 4A Words and Phrases, Assist; Black's Law Dictionary 155 (rev. 4th ed. 1968); Webster's Third New International Dictionary 132 (unabridged ed. 1961).

4. Volume V, 1953 Judiciary Committee Report on the Criminal Code, Wisconsin Legislative Council, p. 65 (February 1953).

5. "With intent that" is defined in § 939.23(4). Also see Wis JI-Criminal 923A and 923B.