

1236 BATTERY TO A PUBLIC TRANSIT VEHICLE OPERATOR OR PASSENGER — § 940.20(6)**Statutory Definition of the Crime**

Section 940.20(6) is violated by one who intentionally causes bodily harm to a public transit vehicle operator or passenger.¹

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. The defendant caused bodily harm to (name of victim).

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

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

2. (Name of victim) was a public transit vehicle (operator) (passenger).

"Public transit vehicle" means any vehicle used for providing transportation service to the general public.⁴

3. The defendant acted intentionally.

This requires that the defendant intended to cause bodily harm to (name of victim) and knew that (name of victim) was a public transit vehicle (operator) (passenger).⁵

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

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 1236 was originally published in 1994 and revised in 2005. This revision corrected a typographical error; it was approved by the Committee in April 2014.

The offense defined in § 940.20(6) was created by 1993 Wisconsin Act 164 (effective date: April 2, 1994). [This statute was originally created as sub. (5) of § 940.20; it was changed to sub. (6) by a later revisor's bill, 1993 Wisconsin Act 491.]

1. This instruction deals with an offense under § 940.20(6)(b)1. That subsection applies to harm that "occurs while the victim is an operator, a driver, or a passenger of, in or on a public transit vehicle." The instruction refers only to "operator or passenger"; the Committee concluded that "operator" includes "driver." Other classes of victims are covered by (b)2. and 3:

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.

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

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

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

4. This is the definition provided in § 940.20(6)(a).

5. Knowledge that the victim was an operator or passenger is required because the word "intentionally" is used in the statute. That requires not only intent to cause bodily harm but also "knowledge of those facts necessary to make his or her conduct criminal and which are set forth after the word "intentionally." § 939.23(3).

6. See § 939.23(3). Wis JI-Criminal 923A and 923B provide additional definition of "intentionally" which may be incorporated here if felt to be necessary.