

1360 OBSTRUCTING EMERGENCY MEDICAL PERSONNEL — § 941.37(3)**Statutory Definition of the Crime**

Obstructing emergency medical personnel, as defined by § 941.37(3) of the Criminal Code of Wisconsin, is committed by one who intentionally interferes with any emergency medical personnel in the performance of duties relating to an emergency or rescue and who has reasonable grounds to believe that the interference may endanger another's safety.

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 interfered with (identify appropriate category for the victim)¹ in the performance of duties relating to an emergency or rescue.

(Identify appropriate category for the victim) are emergency medical personnel.²

"Interfere" means to delay, prevent, hinder, or impede.

2. The defendant intentionally interfered with (a) (an) (identify appropriate category for the victim).

"Intentionally" means that the defendant acted with the purpose to interfere with (a) (an) (identify appropriate category for the victim).³ It also requires that the

defendant knew that the person was (a) (an) (identify appropriate category for the victim) and knew that (he) (she) was performing duties relating to an emergency or rescue.⁴

3. The defendant had reasonable grounds to believe that the interference might endanger the safety of another person.

Deciding About Intent and Knowledge

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

Jury's Decision

If you are satisfied beyond a reasonable doubt that all 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.

ADD ONE OF THE FOLLOWING IF THE OFFENSE WAS CHARGED AS A CLASS E FELONY AND THERE IS EVIDENCE THAT THE PENALTY-INCREASING FACT IS PRESENT.⁵

If you find the defendant guilty, you must answer the following question:

Did the defendant's violation contribute to the death of another person?

Before you may answer the question "yes," you must be satisfied beyond a reasonable doubt that the answer is "yes."

If you are not so satisfied, you must answer the question "no."

COMMENT

Wis JI-Criminal 1360 was originally published in 1985 and revised in 1995 and 2008. This revision was approved by the Committee in December 2017; it reflects changes in terminology made by 2017 Wisconsin Act 12.

This instruction is for a violation of sub. (3) of § 941.37, which is punishable as a Class I felony. The penalty increases to a Class E felony if the violation "contributes to the death of another." § 941.37(4). The instruction provides a special question to be added if the Class E felony is charged.

Subsection (2) of § 941.37 defines a misdemeanor offense which differs from the felony offense under sub. (3) in two ways: it requires "knowingly obstructs" rather than "intentionally interferes"; and it does not require that the actor have "reasonable grounds to believe that the interference may endanger another's safety." There is not a uniform instruction for violations of sub. (2).

2017 Wisconsin Act 12 [effective date: June 23, 2017] changed the terminology used in the statute from "emergency medical technician" to "emergency medical services practitioner" and from "first responder" to "emergency medical responder."

1. Sub. (1)(c) of § 941.37 defines "emergency medical personnel" as follows:

". . . an emergency medical services practitioner licensed under § 256.15, emergency medical responder certified under s. 256.15(8), peace officer or fire fighter, or other person operating or staffing an ambulance or an authorized emergency vehicle."

Section 256.15 is an extensive statute addressing several matters. Licensing of emergency medical technicians is addressed in sub. (5). Sub. (1)(a) of § 941.37 provides that "'ambulance' has the meaning specified in s. 256.01(1t)." Sub. (1)(b) of § 941.37 provides that "'authorized emergency vehicle' has the meaning specified in s. 340.01(3)."

2. Because § 941.37 specifically so provides, the Committee has concluded that the jury may be informed that, for example, "fire fighters are emergency medical personnel." It is for the jury to determine whether the individuals allegedly interfered with in the case were, in fact, fire fighters.

3. If appropriate, add or substitute: "or was aware his conduct was practically certain to cause that result." See § 939.23(3) and Wis JI-Criminal 923A.

4. See § 939.23(3).

5. Subsection (4) of § 941.37 provides that the penalty for violations of § 941.37(3) increases to a Class E felony if a person "violates sub. (3) and thereby contributes to the death of another . . ." If the offense is charged as a Class E felony, the special question should be added to assure a jury finding on the penalty-increasing fact. If the offense is charged as a Class I felony, the instruction should be given without the special question.