

ENROLLED ACT NO. 75, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to crimes and offenses; amending elements of simple battery to address the decision in *United States v. Hays*, 526 F.3d 674, (10th Cir., 2008); conforming provisions; providing legislative intent; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 6-2-501(b), (f)(i) and (ii) and by creating a new subsection (g) and 7-20-102(a) are amended to read:

6-2-501. Simple assault; battery; penalties.

(b) A person is guilty of battery if he ~~unlawfully touches another in a rude, insolent or angry manner or~~ intentionally, knowingly or recklessly causes bodily injury ~~to another~~ by use of physical force.

(f) A household member as defined by W.S. 35-21-102 who commits a second or subsequent battery against any other household member shall be punished as follows:

(i) A person convicted upon a plea of guilty or no contest or found guilty of a second offense under this subsection against any other household member, after having been convicted upon a plea of guilty or no contest or found guilty of a violation of W.S. 6-2-501(a), (b), (e) ~~or (f)~~ through (g), 6-2-502, 6-2-503, 6-2-504 or other substantially similar law of this or any other state, tribe or territory against any other household member within the previous five (5) years is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both. Notwithstanding any other provision of law, the

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term of probation imposed by a court under this paragraph may exceed the maximum term of imprisonment established for this offense under this paragraph provided the term of probation, together with any extension thereof, shall in no case exceed two (2) years;

(ii) A person convicted upon a plea of guilty or no contest or found guilty of a third or subsequent offense under this subsection against any other household member, after having been convicted upon a plea of guilty or no contest or found guilty of a violation of W.S. 6-2-501(a), (b), (e) ~~or (f)~~ through (g), 6-2-502, 6-2-503, 6-2-504 or other substantially similar law of this or any other state, tribe or territory against any other household member within the previous ten (10) years is guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than two thousand dollars (\$2,000.00), or both.

(g) A person is guilty of unlawful contact if he:

(i) Touches another person in a rude, insolent or angry manner without intentionally using sufficient physical force to cause bodily injury to another; or

(ii) Recklessly causes bodily injury to another person.

(h) An unlawful contact under subsection (g) of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00) or both.

7-20-102. Arrests without warrant.

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(a) In addition to arrests specified in W.S. 7-2-102, any peace officer who has probable cause to believe that a violation of W.S. 6-2-501(a), (b), (e) ~~or (f)~~ through (g), 6-2-502(a) or 6-2-504(a) or (b) has taken place within the preceding twenty-four (24) hours or is taking place and that the person who committed or is committing the violation is a household member as defined by W.S. 35-21-102(a)(iv), may arrest the violator without a warrant for that violation, regardless of whether the violation was committed in the presence of the peace officer.

Section 2. The Wyoming legislature, cognizant of the decision of the United State Court of Appeals for the 10th Circuit in *United States v. Hays*, 526 F.3d 674, (10th Cir., 2008), creates the offense of unlawful contact in W.S. 6-2-501(g), to clarify the elements of the offense of simple battery for purposes of federal law, as addressed in the court's decision.

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Section 3. This act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk