

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB40)

Received: **06/27/2007**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Bauer**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

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Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

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Pre Topic:

LFB:.....Bauer -

Topic:

Privilege of self-defense

Instructions:

insert 07 AB 35

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 06/27/2007	kfollett 06/27/2007		_____			
/1			jfrantze 06/28/2007	_____	mbarman 06/28/2007		

FE Sent For:

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/?	phurley	11/5f 6/27		off Self 6/28			

FE Sent For:

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LFB:.....Bauer - Privilege of self-defense

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1551, line 11: after that line insert: **INSERT A**

3 (END)

ASSEMBLY BILL 35

have been known to be a peace officer) and was entering the residence in the performance of his or her official duties.

Insert A

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION ^{3834br} ~~939.48~~ (1m) of the statutes is created to read:

939.48 **(1m)** (a) If an actor intentionally used force that was intended or likely to cause death or great bodily harm, the court shall presume that the actor reasonably believed that the force was necessary to prevent imminent death or great bodily harm to himself or herself if the actor makes such a claim under sub. (1) and any of the following applies:

1. The person against whom the force was used was in the process of unlawfully and forcibly entering the actor's residence, the actor was present in the residence, and the actor knew or had reason to believe that an unlawful and forcible entry was occurring.

2. The person against whom the force was used was in the actor's residence after unlawfully and forcibly entering it, the actor was present in the residence, and the actor knew or had reason to believe that the person had unlawfully and forcibly entered the residence.

(b) The presumption described in par. (a) does not apply if any of the following applies:

1. The actor was engaged in an unlawful activity or was using his or her residence to further an unlawful activity at the time.

2. The person against whom the force was used was a peace officer who entered or attempted to enter the actor's residence in the performance of his or her official duties. This subdivision applies only if at least one of the following applies:



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0779/1
PJH:cjs:jf

LFB:.....Bauer - Privilege of self-defense

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 1551, line 11: after that line insert:

3 "SECTION 3834br. 939.48 (1m) of the statutes is created to read:

4 939.48 (1m) (a) If an actor intentionally used force that was intended or likely
5 to cause death or great bodily harm, the court shall presume that the actor
6 reasonably believed that the force was necessary to prevent imminent death or great
7 bodily harm to himself or herself if the actor makes such a claim under sub. (1) and
8 any of the following applies:

9 1. The person against whom the force was used was in the process of unlawfully
10 and forcibly entering the actor's residence, the actor was present in the residence,

1 and the actor knew or had reason to believe that an unlawful and forcible entry was
2 occurring.

3 2. The person against whom the force was used was in the actor's residence
4 after unlawfully and forcibly entering it, the actor was present in the residence, and
5 the actor knew or had reason to believe that the person had unlawfully and forcibly
6 entered the residence.

7 (b) The presumption described in par. (a) does not apply if any of the following
8 applies:

9 1. The actor was engaged in an unlawful activity or was using his or her
10 residence to further an unlawful activity at the time.

11 2. The person against whom the force was used was a peace officer who entered
12 or attempted to enter the actor's residence in the performance of his or her official
13 duties. This subdivision applies only if at least one of the following applies:

14 a. The officer identified himself or herself to the actor before the force described
15 in par. (a) was used by the actor.

16 b. The actor knew or reasonably should have known that the person entering
17 or attempting to enter his or her residence was a peace officer.”.

18 (END)