



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2009 Assembly Bill 193**

**Assembly  
Substitute Amendment 1**

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*Current law* allows the use of force that is intended or likely to cause the death of or great bodily harm to another individual as a defense to criminal liability only if the person reasonably believes that using this type of force is necessary to prevent the imminent death of or great bodily harm to himself or herself or another person.

**2009 Assembly Bill 193** creates a presumption that a person reasonably believed that defensive force that was intended or likely to cause death or great bodily harm was necessary to prevent the imminent death of or great bodily harm to himself or herself or another person, if all of the following conditions are met:

- The individual against whom force was used was in the process of unlawfully and forcibly entering or had already unlawfully and forcibly entered the residence of the person who used force.
- The person using force was present in his or her residence.
- The person using force knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

The presumption would not apply if: (1) the person using force was engaged in criminal activity or was using his or her residence to further an unlawful activity; or (2) if the individual against whom force was used had identified himself or herself as a peace officer or should have been known to be a peace officer and was entering the residence in the performance of his or her official duties.

*Assembly Substitute Amendment 1* retains the presumption and the exception language of Assembly Bill 193 as they apply to criminal actions, with two changes:

- If a court finds that the presumption applies, the person is also entitled to immunity from civil liability.
- If the court finds the person is entitled to civil immunity the person is also entitled to recover attorney fees, court costs, compensation for income loss, and other expenses the person incurred to defend himself or herself against civil action.

**Legislative History**

Assembly Substitute Amendment 1 was a committee amendment. On October 15, 2009, the Assembly Committee on Personal Privacy recommended the amendment for adoption by a vote of Ayes, 5; Noes, 1. Assembly Bill 193, as amended, was recommended for passage on a vote of Ayes, 5; Noes, 1.

HJF:jb;wu