2013 DRAFTING REQUEST

Bill

Received:	**7/16/2013**	Received By:	**phurley**
Wanted:	**As time permits**	Same as LRB:	
For:	**Chris Taylor (608) 266-5342**	By/Representing:	
May Contact:		Drafter:	**phurley**
Subject:	**Courts - miscellaneous/other** **Criminal Law - guns and weapons**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Taylor@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Repeal castle doctrine

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	phurley 7/16/2013	jdyer 7/17/2013	jfrantze 7/17/2013	_____ _____			
/1				_____ _____	sbasford 7/17/2013	srose 12/9/2013	State S&L

FE Sent For:

at intro
1/23/14

<END>

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State of Wisconsin
2013 - 2014 LEGISLATURE

LRB-1035/1
PJH:jld:ph

Keep
26941
rmr

2013 BILL

due by 7-19-13

Regen

AN ACT *to repeal* 895.62 and 939.48 (1m) of the statutes; **relating to:** the presumption of reasonableness in a criminal or civil case involving self–defense.

Analysis by the Legislative Reference Bureau

Under current law, in general, a person who uses force in self–defense or in the defense of another person may not be convicted of a crime stemming from that use of force. This law applies only when: 1) the amount of force used is reasonable; and 2) the person uses that force to prevent or stop what he or she reasonably believes is an unlawful interference with himself or herself or another person, such as the crime of battery.

Under current law, a factfinder in a criminal case involving a person's use of force intended to or likely to cause death or great bodily harm must presume that the person reasonably believed the force was necessary to prevent death or great bodily harm to himself or herself or to another person if: 1) the individual against whom the force was used was in the process of unlawfully and forcibly entering, or had already unlawfully and forcefully entered, the dwelling, motor vehicle, or, in the case of a business owner or operator, place of business of the person who used the force; 2) the person was present in that dwelling, motor vehicle, or place of business; and 3) the person knew or reasonably believed that an unlawful and forcible entry was occurring or had occurred. Current law prohibits a court from considering whether the person had an opportunity to flee or retreat before he or she used the force.

Under current law, the presumption does not apply if: 1) the person who used the force was engaged in a criminal activity or was using his or her dwelling, motor

vehicle, or place of business to further a criminal activity; or 2) the individual against whom the force was used had identified himself or herself as a public safety worker (or was or should have been known to be a public safety worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties.

Current law also confers immunity from civil liability for a person who uses force that is intended to or likely to cause death or great bodily harm if the person reasonably believed that the force was necessary to prevent death or bodily harm to himself or herself or to another person and if: 1) the individual against whom the force was used was in the process of unlawfully and forcibly entering, or had already forcibly entered, the dwelling, motor vehicle, or place of business of the person who used the force; 2) the person who used the force was present in the dwelling, motor vehicle, or place of business; and 3) the person who used the force knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

For purposes of civil immunity, a person is not presumed to have reasonably believed that the force was necessary if: 1) the person who used the force was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity; or 2) the individual against whom the force was used had identified himself or herself as a public safety worker (or was or should have been known to be a public safety worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties.

Under current law, if a court finds that person who is sued in civil court is immune from liability because he or she used the force reasonably, the person is entitled to attorney fees, court costs, compensation for income loss, and other expenses the person incurred to defend himself or herself against the civil action.

This bill repeals the presumption of reasonableness in criminal and civil actions, and removes the provisions awarding attorney fees, court costs, compensation for income loss, and other expenses incurred by a person who is sued civilly for using force that is intended to or likely to cause death or great bodily harm.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 895.62 of the statutes is repealed.

2 **SECTION 2.** 939.48 (1m) of the statutes is repealed.

3 **(END)**

Rose, Stefanie

From: Walsh, Patrick
Sent: Monday, December 09, 2013 10:23 AM
To: LRB.Legal
Subject: Draft Review: LRB -2694/1 Topic: Repeal castle doctrine

Please Jacket LRB -2694/1 for the ASSEMBLY.