
Wisconsin Legislative Council

AMENDMENT MEMO



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2019 Senate Bill 211

Senate Amendment 1

CURRENT LAW

Current law provides for various defenses to criminal liability, including a privilege of self-defense. Specifically, under current law, a person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by the other person. The actor may not intentionally use force which is intended or likely to cause death or great bodily harm, unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

Current law also provides victims of human or child trafficking with an affirmative defense for any offense committed as a direct result of human or child trafficking, without regard to whether anyone was prosecuted or convicted for the crimes of human or child trafficking.

2019 SENATE BILL 211

The bill creates a new type of self-defense privilege and specifies that this privilege exists in addition to the affirmative defense under current law. Under the bill, a victim of human or child trafficking is privileged to threaten or intentionally use force against another, including force that was intended or likely to cause death or great bodily harm, if all of the following apply:

- The actor believed that the use of force was necessary to prevent or terminate an unlawful interference with his or her person or that the use of force was necessary to escape from sex trafficking.
- The force was used against a person who was trafficking the actor or who was the patron of a commercial sex act to be performed by the actor.

The privilege created by the bill applies without regard to whether anyone was prosecuted or convicted for the crimes of human or child trafficking.

SENATE AMENDMENT 1

The amendment make two changes to the bill. First, under the amendment, the actor must reasonably believe that use of force was necessary to prevent or terminate an unlawful interference or to escape from sex trafficking. In other words, the amendment requires that the actor's belief as to the necessity of force be reasonable. Second, under the amendment, a trafficking victim is privileged to threaten or use force only against a person who was trafficking the actor, and not against a patron of a commercial sex act.

BILL HISTORY

Senator Bernier offered Senate Amendment 1 on August 14, 2019. On January 29, 2020, the Senate Committee on Judiciary and Public Safety recommended adoption of the amendment, and passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

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