



## 2013 ASSEMBLY BILL 820

February 27, 2014 - Introduced by Representatives GOYKE, BARNES, OHNSTAD, KAHL, BIES, STRACHOTA, A. OTT, BROOKS, DANOU, WRIGHT, BILLINGS, JOHNSON, BERNARD SCHABER, BEWLEY, KOLSTE, POPE, HEBL, BERCEAU, SARGENT, PASCH, RINGHAND, HESSELBEIN, ZEPNICK and HULSEY, cosponsored by Senators SHILLING, HARRIS, L. TAYLOR, T. CULLEN, ERPENBACH, RISSER, WIRCH, CARPENTER, HANSEN and LEHMAN. Referred to Committee on Public Safety and Homeland Security.

1     **AN ACT to amend** 895.62 (4) (b) (intro.), 895.62 (4) (b) 1., 895.62 (4) (b) 2. and  
2             939.48 (1m) (b) 2.; and **to create** 895.62 (1) (d) and 939.48 (1m) (a) 3. of the  
3             statutes; **relating to:** using force against a certified or licensed social worker,  
4             school social worker, mental health worker, human services or social services  
5             worker, or public health worker.

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### *Analysis by the Legislative Reference Bureau*

Under current law, in general, a person may use force in self-defense or in the defense of another person if: 1) the amount of force used is reasonable under the circumstances; and 2) the person reasonably believes using the force is necessary to stop an unlawful interference with himself or herself or another person, such as the crime of battery.

Under current law, a fact finder in a criminal case or a civil 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 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 forcibly 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.

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Under current law, the presumption that the person reasonably believed the force was necessary does not apply if 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 defines a “public safety worker” as a licensed emergency medical technician, a certified first responder, a peace officer, a fire fighter, or a person operating or staffing an ambulance.

This bill defines a “public safety, health, or welfare worker” as a public safety worker, a certified, licensed, or otherwise practicing social worker, a school social worker, a mental health worker, a human services or social services worker, or a public health worker. Under the bill, the presumption that the person reasonably believed the force was necessary does not apply if the individual against whom the force was used had identified himself or herself as a public safety, health, or welfare worker (or was known or should have been known by the person who used force to be a public safety, health, or welfare worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties.

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

1           **SECTION 1.** 895.62 (1) (d) of the statutes is created to read:

2           895.62 (1) (d) “Public safety, health, or welfare worker” means a public safety  
3 worker, as defined in s. 941.375 (1) (b), a social worker, as defined in s. 252.15 (1) (er),  
4 a school social worker licensed by the department of public instruction, a mental  
5 health worker, a human services or social services worker, or a public health worker.

6           **SECTION 2.** 895.62 (4) (b) (intro.) of the statutes is amended to read:

7           895.62 (4) (b) (intro.) The person against whom the force was used was a public  
8 safety, health, or welfare worker, ~~as defined in s. 941.375 (1) (b)~~, who entered or  
9 attempted to enter the actor’s dwelling, motor vehicle, or place of business in the  
10 performance of his or her official duties. This paragraph applies only if at least one  
11 of the following applies:

12           **SECTION 3.** 895.62 (4) (b) 1. of the statutes is amended to read:

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1           895.62 (4) (b) 1. The public safety, health, or welfare worker identified himself  
2 or herself to the actor before the force described in sub. (2) was used by the actor.

3           **SECTION 4.** 895.62 (4) (b) 2. of the statutes is amended to read:

4           895.62 (4) (b) 2. The actor knew or reasonably should have known that the  
5 person entering or attempting to enter his or her dwelling, motor vehicle, or place of  
6 business was a public safety, health, or welfare worker.

7           **SECTION 5.** 939.48 (1m) (a) 3. of the statutes is created to read:

8           939.48 (1m) (a) 3. “Public safety, health, or welfare worker” means a public  
9 safety worker, as defined in s. 941.375 (1) (b), a social worker, as defined in s. 252.15  
10 (1) (er), a school social worker licensed by the department of public instruction, a  
11 mental health worker, a human services or social services worker, or a public health  
12 worker.

13           **SECTION 6.** 939.48 (1m) (b) 2. of the statutes is amended to read:

14           939.48 (1m) (b) 2. The person against whom the force was used was a public  
15 safety, health, or welfare worker, ~~as defined in s. 941.375 (1) (b),~~ who entered or  
16 attempted to enter the actor’s dwelling, motor vehicle, or place of business in the  
17 performance of his or her official duties. This subdivision applies only if at least one  
18 of the following applies:

19           a. The public safety, health, or welfare worker identified himself or herself to  
20 the actor before the force described in par. (ar) was used by the actor.

21           b. The actor knew or reasonably should have known that the person entering  
22 or attempting to enter his or her dwelling, motor vehicle, or place of business was a  
23 public safety, health, or welfare worker.

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(END)