

2001 ASSEMBLY BILL 349

April 24, 2001 – Introduced by Representatives SCHNEIDER, WADE and BERCEAU.
Referred to Committee on Criminal Justice.

1 **AN ACT to renumber** 940.19 (1); **to amend** 48.685 (2) (bb), 50.065 (2) (bb),
2 939.632 (1) (e) 3. and 940.225 (5) (b) 1.; and **to create** 940.19 (1) (b) of the
3 statutes; **relating to:** a defense to criminal liability for battery in certain
4 circumstances.

Analysis by the Legislative Reference Bureau

Under current law, a person who causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of simple battery and may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

Current law also provides various defenses to a person charged with committing a crime, including the crime of simple battery. The defense that applies most commonly to battery is self-defense or the defense of another, under which a person may 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 or some other person. A person who was acting in self-defense or defense of another must be acquitted of the crime and thus may not be fined or imprisoned.

This bill provides a new defense to the crime of simple battery. Under the bill, a person charged with simple battery has a defense against the charge if: 1) the victim of the defendant's simple battery had first committed an act of domestic abuse; 2) the defendant is a relative of the person against whom the act of domestic abuse was committed; and 3) the defendant's simple battery was in response to the act of domestic abuse. For purposes of the bill, "domestic abuse" means a simple battery

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or an act of stalking by an adult person against his or her spouse or against an adult with whom the person resides. The relatives who may raise this defense include a parent, grandparent, brother, sister, aunt, uncle, and first cousin of a victim of an act of domestic abuse. A person who was acting under the defense created in the bill must be acquitted of the simple battery and thus may not be fined or imprisoned.

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

1 **SECTION 1.** 48.685 (2) (bb) of the statutes is amended to read:

2 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a
3 charge of a serious crime, but does not completely and clearly indicate the final
4 disposition of the charge, the department, county department, child welfare agency,
5 school board or entity shall make every reasonable effort to contact the clerk of courts
6 to determine the final disposition of the charge. If a background information form
7 under sub. (6) (a) or (am) indicates a charge or a conviction of a serious crime, but
8 information obtained under par. (am) or (b) 1. does not indicate such a charge or
9 conviction, the department, county department, child welfare agency, school board
10 or entity shall make every reasonable effort to contact the clerk of courts to obtain
11 a copy of the criminal complaint and the final disposition of the complaint. If
12 information obtained under par. (am) or (b) 1., a background information form under
13 sub. (6) (a) or (am) or any other information indicates a conviction of a violation of
14 s. 940.19 (1) (a), 940.195, 940.20, 941.30, 942.08, 947.01 or 947.013 obtained not more
15 than 5 years before the date on which that information was obtained, the
16 department, county department, child welfare agency, school board or entity shall
17 make every reasonable effort to contact the clerk of courts to obtain a copy of the
18 criminal complaint and judgment of conviction relating to that violation.

19 **SECTION 2.** 50.065 (2) (bb) of the statutes is amended to read:

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1 50.065 (2) (bb) If information obtained under par. (am) or (b) indicates a charge
2 of a serious crime, but does not completely and clearly indicate the final disposition
3 of the charge, the department or entity shall make every reasonable effort to contact
4 the clerk of courts to determine the final disposition of the charge. If a background
5 information form under sub. (6) (a) or (am) indicates a charge or a conviction of a
6 serious crime, but information obtained under par. (am) or (b) does not indicate such
7 a charge or conviction, the department or entity shall make every reasonable effort
8 to contact the clerk of courts to obtain a copy of the criminal complaint and the final
9 disposition of the complaint. If information obtained under par. (am) or (b), a
10 background information form under sub. (6) (a) or (am) or any other information
11 indicates a conviction of a violation of s. 940.19 (1) (a), 940.195, 940.20, 941.30,
12 942.08, 947.01 or 947.013 obtained not more than 5 years before the date on which
13 that information was obtained, the department or entity shall make every
14 reasonable effort to contact the clerk of courts to obtain a copy of the criminal
15 complaint and judgment of conviction relating to that violation.

16 **SECTION 3.** 939.632 (1) (e) 3. of the statutes is amended to read:

17 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1) (a), 940.225 (3m), 940.32
18 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3).

19 **SECTION 4.** 940.19 (1) of the statutes is renumbered 940.19 (1) (a).

20 **SECTION 5.** 940.19 (1) (b) of the statutes is created to read:

21 940.19 (1) (b) 1. In this paragraph:

22 a. “Act of domestic abuse” means a violation of par. (a) or s. 940.32 by an adult
23 person against his or her spouse or against an adult with whom the person resides.

24 b. “Relative” means a parent, grandparent, brother, sister, aunt, uncle, or first
25 cousin, whether the relationship is by blood, marriage, or adoption.

