

2009 DRAFTING REQUEST

Bill

Received: 03/03/2009

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Ann Hraychuck (608) 267-2365

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Criminal Law - guns and weapons
Criminal Law - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hraychuck@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Privilege of self defense

Instructions:

Companion to 09-2087

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 03/03/2009	nmatzke 03/04/2009		_____			
		jdyer 03/04/2009		_____			
/1			phenry 03/04/2009	_____	mbarman 03/04/2009	sbasford 03/16/2009	

FE Sent For:

None

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/?	phurley	1 3/4 jld	3/4 ph	3/4 ph			

FE Sent For:

<END>

Hurley, Peggy

From: Hilton, Stephanie
Sent: Monday, March 02, 2009 3:16 PM
To: Hurley, Peggy
Subject: FW: Co-sponsorship of LRB 2087/1: The Privilege of Self-Defense, Castle Doctrine
Attachments: 09-20871.pdf

Hi Peggy,

Rep. Hraychuck is working with Sen. Holperin on LRB-2087, and she needs an Assembly companion drafted.

Thanks!

-Stephanie

Stephanie Hilton
 Legislative Assistant
 Office of Rep. Ann Hraychuck
 608-267-2365 or 1-888-529-0028
 Room 6 North State Capitol

From: Sen.Holperin
Sent: Monday, March 02, 2009 11:58 AM
To: *Legislative All Senate; *Legislative All Assembly
Subject: Co-sponsorship of LRB 2087/1: The Privilege of Self-Defense, Castle Doctrine

TO: All Legislators

FROM: Senator Holperin, Representative Hraychuck and Representative Danou

RE: Co-Sponsorship of LRB-2087/1, The Privilege of Self-Defense Castle Doctrine

We are re-introducing this bill from last session, known as the Castle Doctrine. This bill would expand the definition of self-defense in situations where an intruder enters someone's home. A person can use "force in self-defense" if the following conditions, listed below, are present. If you would like to cosponsor this legislation, please contact Brandon in the Holperin office at 6-2509, Stephanie in the Hraychuck office at 7-2365 or Dan in the Danou office at 6-7015. You will be signed onto both bills unless you request otherwise.

DEADLINE: Monday, March 16, 2009, 5:00 PM

CO-SPONSORSHIP MEMORANDUM

Analysis by the Legislative Reference Bureau

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 in an unlawful interference with himself or herself or another person, such as the crime of battery. Current law specifies that a person may use force that is intended or likely to cause the death of or great bodily harm to another individual only if the person reasonably believes that using such force

03/03/2009

is necessary to prevent the imminent death of or great bodily harm to himself or herself or another person.

Under this bill, if a person used defensive force that was intended or likely to cause death or great bodily harm, the court must presume that the person reasonably believed that the force was necessary to prevent death or great bodily harm 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 residence of the person who used the force; 2) the person was present in that residence; and 3) the person knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred. This presumption, however, does not apply if: 1) the person who used the force was engaged in an unlawful activity or was using his or her residence to further an unlawful activity; or 2) the individual against whom the force was used had identified himself or herself as a peace officer (or was or should have been known to be a peace officer) and was entering the residence in the performance of his or her official duties.

↑
keep

2274/1

mmr

2009 BILL

3-309

X

Gen

1 AN ACT *to create* 939.48 (1m) of the statutes; **relating to:** the privilege of
2 self-defense. ✓

Analysis by the Legislative Reference Bureau

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. Current law specifies that a person may use force that is intended or likely to cause the death of or great bodily harm to another individual only if the person reasonably believes that using such force is necessary to prevent the imminent death of or great bodily harm to himself or herself or another person.

Under this bill, if a person used defensive force that was intended or likely to cause death or great bodily harm, the court must presume that the person reasonably believed that the force was necessary to prevent death or great bodily harm 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 residence of the person who used the force; 2) the person was present in that residence; and 3) the person knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred. This presumption, however, does not apply if: 1) the person who used the force was engaged in an unlawful activity or was using his or her residence to further an unlawful activity; or 2) the individual against whom the force was used had identified himself or herself as a peace officer (or was or should

BILL

have been known to be a peace officer) and was entering the residence in the performance of his or her official duties.

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

1 **SECTION 1.** 939.48 (1m)^X of the statutes is created to read:

2 939.48 **(1m)** (a) If an actor intentionally used force that was intended or likely
3 to cause death or great bodily harm, the court shall presume that the actor
4 reasonably believed that the force was necessary to prevent imminent death or great
5 bodily harm to himself or herself if the actor makes such a claim under sub. (1) and
6 any of the following applies:

7 1. The person against whom the force was used was in the process of unlawfully
8 and forcibly entering the actor's residence, the actor was present in the residence,
9 and the actor knew or had reason to believe that an unlawful and forcible entry was
10 occurring.

11 2. The person against whom the force was used was in the actor's residence
12 after unlawfully and forcibly entering it, the actor was present in the residence, and
13 the actor knew or had reason to believe that the person had unlawfully and forcibly
14 entered the residence.

15 (b) The presumption described in par. (a) does not apply if any of the following
16 applies:

17 1. The actor was engaged in an unlawful activity or was using his or her
18 residence to further an unlawful activity at the time.

19 2. The person against whom the force was used was a peace officer who entered
20 or attempted to enter the actor's residence in the performance of his or her official
21 duties. This subdivision applies only if at least one of the following applies:

Basford, Sarah

From: Rep.Hraychuck
Sent: Monday, March 16, 2009 11:01 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-2274/1 Topic: Privilege of self defense

Please Jacket LRB 09-2274/1 for the ASSEMBLY.

Thanks,
Rep. Ann Hraychuck
6 North