2013 DRAFTING REQUEST

Bill									
Receiv	ved:	1/22/2014				Received By:	phurley		
Wante	ed:	As time	permits			Same as LRB:	-2367		
For:		Jennifer Shilling (608) 266-5490				By/Representing:	Nathan		
May C	Contact:					Drafter:	phurley		
Subjec	Subject: Courts - immunity liability Criminal Law - miscellaneous				Addl. Drafters:				
					Extra Copies:				
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/1	phurley 1/22/20		evinz 1/27/2014	jmurphy 1/27/2014		mbarman 1/27/2014	srose 1/31/2014		
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Subjec			immunity liability			Addl. Drafters:			
	Criminal Law - miscellaneous				Extra Copies:				
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<END>

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For:

Jennifer Shilling (608) 266-5490

By/Representing: Nathan

May Contact:

Drafter:

phurley

Subject:

Courts - immunity liability

Criminal Law - miscellaneous

Addl. Drafters:

Extra Copies:

Submit via email:

YES

Requester's email:

Sen.Shilling@legis.wisconsin.gov

Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Include social workers in castle doctrine exception \checkmark

Instructions:

email of 5-14-13

Drafting History:

Vers. Drafted

Reviewed

<u>Proofed</u> <u>Typed</u>

Submitted

<u>Jacketed</u>

Required

/1

phurley

FE Sent For:

<END>



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State of Misconsin 2013 - 2014 LEGISLATURE

2013 BILL

LRB-266 PJH:eev:jf

4067/1

Conp

M-661

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

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.

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

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

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

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

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

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

BILL

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 <u>, health, or welfare</u> worker.

Barman, Mike

From:

Houdek, Nathan

Sent:

To: Subject:

Friday, January 31, 2014 12:20 PM
LRB.Legal
Draft Review: LRB -4067/1 Topic: Include social workers in castle doctrine exception

Please Jacket LRB -4067/1 for the SENATE.