2021 SENATE BILL 845

1 AN ACT *to create* 301.283 and 941.26 (4) (c) 4. of the statutes; **relating to:** use

2 of pepper spray by an employee of the Department of Corrections.

Analysis by the Legislative Reference Bureau

Under current law, a person who intentionally uses a device or container containing oleoresin of capsicum or CS gel (commonly known as pepper spray) to cause bodily harm or discomfort to another person is guilty of a Class A misdemeanor. Current law provides exceptions to the crime such as a person acting in self–defense or defense of another, a law enforcement officer acting in an official capacity, or armed forces or national guard personnel acting in the line of duty. This bill adds an exception for employees of the Department of Corrections who are acting in an official capacity. The bill also prohibits DOC from prohibiting employees from carrying or using such devices or containers while acting in an official capacity.

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

3 SECTION 1. 301.283 of the statutes is created to read:

4 **301.283 Restricting prohibitions on pepper spray usage by employees.**

5 The department may not prohibit an employee, while acting in an official capacity,

6 from carrying any device or container that contains a combination of oleoresin of

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SENATE BILL 845   **SECTION 1**

1   capsicum or CS gel, as defined in s. 941.26 (1c) (a), and inert ingredients or from using

2   the device or container.

3   **SECTION 2.** 941.26 (4) (c) 4. of the statutes is created to read:

4   941.26 **(4)** (c) 4. An employee of the department of corrections acting in an

5   official capacity.

6   **(END)**