



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2490/1
CMH:amn&kjf

2019 ASSEMBLY BILL 436

September 12, 2019 - Introduced by Representatives NEUBAUER, CABRERA, NOVAK, ZAMARRIPA, SPREITZER, ANDERSON, BILLINGS, BOWEN, BROSTOFF, CONSIDINE, EMERSON, FIELDS, GOYKE, GRUSZYNSKI, HEBL, HESSELBEIN, KITCHENS, MCGUIRE, OHNSTAD, POPE, RIEMER, SARGENT, SHANKLAND, SINICKI, STUCK, SUBECK, C. TAYLOR, VINING and VRUWINK, cosponsored by Senators CARPENTER, ERPENBACH, HANSEN, JOHNSON, LARSON, RISSER, SMITH, L. TAYLOR and WIRCH. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT** *to create* 939.44 (3) and 939.48 (5m) of the statutes; **relating to:**
2 eliminating criminal defense of adequate provocation or self-defense if the
3 claim is based on the victim's gender identity or sexual orientation.

Analysis by the Legislative Reference Bureau

Current law provides specific defenses to criminal liability. For instance, a charge of first-degree intentional homicide may be mitigated to second-degree intentional homicide if, at the time of committing the crime, the defendant reasonably believes the victim has done something that adequately provokes the defendant to lack self-control completely. Another defense is the privilege of self-defense under which a person may threaten or intentionally 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 by the other person.

Under this bill, a defendant may not assert adequate provocation or self-defense as a defense if the criminal action in question resulted from the discovery of, knowledge about, or potential disclosure of the victim's gender identity or expression or sexual orientation, including under circumstances in which the victim made a romantic or sexual advance without use or threat of force or violence toward the defendant.

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

