

Wisconsin AB-69	ALEC Castle Doctrine Act
<p>895.62 Use of force in response to unlawful and forcible entry into a residence; civil liability immunity.</p> <p>(1) In this section, “actor” means a person who uses force that is intended or likely cause death or great bodily harm to another person.</p> <p>(2) Except as provided in sub. (4), an actor is immune from civil liability arising out of his or her use of force that is intended or likely to cause death or great bodily harm if the actor reasonably believed that the force was necessary to prevent imminent death or great bodily harm to himself or herself or to another person and either of the following applies:</p>	
<p>(a) The person against whom the force was used was in the process of unlawfully and forcibly entering the actor’s residence, the actor was present in the residence, and the actor knew or had reason to believe that an unlawful and forcible entry was occurring.</p>	<p>a. The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully or forcefully entered, a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person’s will from the dwelling, residence, or occupied vehicle; and</p>
<p>(b) The person against whom the force was used was in the actor’s residence after unlawfully and forcibly entering it, the actor was present in the residence, and the actor knew or had reason to believe that the person had unlawfully and forcibly entered the residence.</p>	<p>b. The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.</p>
<p>(3) An actor is presumed to have reasonably believed that the force was necessary to prevent imminent death or great bodily harm to himself or herself or to another person if either sub. (2) (a) or (b) applies.</p>	<p>(1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if <i>[either (a) or (b) applies]</i></p>
<p>(4) The presumption described in sub. (3) does not apply if any of the following are true:</p>	<p>2. The presumption set forth in Subsection (1) does not apply if:</p>
<p>(a) The actor was engaged in a criminal activity or was using his or her residence to further a criminal activity at the time he or she used the force described in sub. (2).</p>	<p>c. The person who uses defensive force is engaged in a criminal activity or is using the dwelling, residence, or occupied vehicle to further a criminal activity; or</p>
<p>(b) The person against whom the force was used was a peace officer who entered or attempted to enter the actor’s residence in the performance of his or her official duties. This paragraph applies only if at least one of the following applies:</p> <ol style="list-style-type: none"> 1. The officer identified himself or herself to the actor before the force described in sub. (2) was used by the actor. 2. The actor knew or reasonably should have known that the person entering or attempting to enter his or her residence was a peace officer. 	<p>d. The person against whom defensive force is used is a law enforcement officer, as defined in [insert appropriate reference to state/commonwealth code, which defines the term “law enforcement officer” or similar], who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with applicable law, or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.</p>
<p>(5) In any civil action, if a court finds that a person is immune from civil liability under sub. (2), the court shall award the person reasonable attorney fees, costs, compensation for loss of income, and other costs of</p>	<p>Section 2 (4). The court shall award reasonable attorney’s fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the</p>

the litigation reasonably incurred by the person.	court finds that the defendant is immune from prosecution as provided in subsection (2).
Section 2. 939.48 (1m) (a) If an actor intentionally used force that was intended or likely to cause death or great bodily harm, the court shall presume that the actor reasonably believed that the force was necessary to prevent imminent death or great bodily harm to himself or herself if the actor makes such a claim under sub. (1) and any of the following applies:	Sect 1(1). A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:
1. The person against whom the force was used was in the process of unlawfully and forcibly entering the actor's residence, the actor was present in the residence, and the actor knew or reasonably believed that an unlawful and forcible entry was occurring.	Sect 1(1)(a) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering . . . a dwelling, residence, or occupied vehicle, . . . and (b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring . . .
2. The person against whom the force was used was in the actor's residence after unlawfully and forcibly entering it, the actor was present in the residence, and the actor knew or reasonably believed that the person had unlawfully and forcibly entered the residence.	Sect 1(1)(a)The person against whom the defensive force was used . . . had unlawfully or forcefully entered, a dwelling, residence, or occupied vehicle . . . (b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act . . . had occurred.
(b) The presumption described in par. (a) does not apply if any of the following applies:	Sect 1(2) The presumption set forth in Subsection (1) does not apply if:
1. The actor was engaged in a criminal activity or was using his or her residence to further a criminal activity at the time.	c. The person who uses defensive force is engaged in a criminal activity or is using the dwelling, residence, or occupied vehicle to further a criminal activity; or
2. The person against whom the force was used was a peace officer who entered or attempted to enter the actor's residence in the performance of his or her official duties. This subdivision applies only if at least one of the following applies: a. The officer identified himself or herself to the actor before the force described in par. (a) was used by the actor. b. The actor knew or reasonably should have known that the person entering or attempting to enter his or her residence was a peace officer.	d. The person against whom defensive force is used is a law enforcement officer, as defined in [insert appropriate reference to state/commonwealth code, which defines the term "law enforcement officer" or similar], who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with applicable law, or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.
SECTION 3. Initial applicability. (1) This act first applies to a use of force that occurs on the effective date of this subsection.	
	Not included in AB-69: 3. A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another, or to prevent the commission of a forcible felony. 4. A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence. 5. As used in this section, the term: a. "Dwelling" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent,

mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.

b. "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

c. "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

Section 2. {Immunity from Criminal Prosecution and Civil Action} 1. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.

3. A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (2), but the agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used was unlawful.

4. The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (2).