



2015 ASSEMBLY BILL 7

January 7, 2015 – Introduced by Representative J. OTT. Referred to Committee on Judiciary.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 939.66 (2) of the statutes; **relating to:** lesser included
2 homicide crimes.

Analysis by the Legislative Reference Bureau

Under current law, a person may be charged with, and prosecuted for, a number of crimes related to the same conduct. However, a person may only be convicted of the crime charged or an included crime, but not both. An included crime is generally a crime that has the same or similar elements as the crime charged but is equally or less serious, carries the same or a lower penalty, or requires a showing of negligence or recklessness rather than intent. Current law states that, with regard to a homicide conviction, an included crime may be “a crime which is a less serious type of criminal homicide than the one charged.”

In *State of Wisconsin v. Patterson*, 2010 WI 130, the Wisconsin Supreme Court held that a less serious type of criminal homicide than the one charged must be limited to homicide charges that are brought under the statutes proscribing homicidal acts, and do not include charges that are brought under the statutes proscribing other acts that may or may not result in the death of another person.

This bill amends the included homicide statute to reflect the holding in the *Patterson* case.

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

ASSEMBLY BILL 7

SECTION 1

1 **SECTION 1.** 939.66 (2) of the statutes is amended to read:

2 939.66 **(2)** A crime which may be charged under subch. I of ch. 940 and which

3 is a less serious type of criminal homicide than the one charged.

4 **(END)**