



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3340/1
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2015 ASSEMBLY BILL 566

December 4, 2015 – Introduced by Representatives KERKMAN, HORLACHER, DANOU, JACQUE, KLEEFISCH, KREMER, T. LARSON, MURPHY, SKOWRONSKI, STEFFEN and TITTL, cosponsored by Senators WANGGAARD, LEMAHIEU, GUDEx, MARKLEIN, NASS, OLSEN and WIRCH. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 942.08 (2) (intro.), 942.09 (2) (am) (intro.), 942.09 (3m) (a)
2 (intro.), 942.09 (5) (a) (intro.) and 942.09 (5) (b) 1. (intro.); and **to create** 942.08
3 (3), 942.09 (2) (dm), 942.09 (3m) (am), 942.09 (5) (am) and 942.09 (5) (bn) of the
4 statutes; **relating to:** invasions of privacy and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

This bill increases the penalties for certain criminal invasions of privacy. Under current law, a person is guilty of a Class A misdemeanor if he or she does any of following: 1) installs or uses a surveillance device in any private place to observe any nude person; 2) looks, for sexual arousal or gratification, into a private place that is part of a public accommodation in which a person may reasonably be expected to be nude; or 3) looks, for sexual arousal or gratification, into an individual's dwelling if an individual is present and has a reasonable expectation of privacy.

Under the bill, a person who violates any of these prohibitions is guilty of a Class I felony if the victim is under the age of 18 when the violation occurs.

Under current law, a person who captures a representation of a nude person in a circumstance that the person depicted has a reasonable expectation of privacy, who distributes such a representation, or who possesses such a representation is guilty of a Class I felony. Under the bill, a person who violates any of these provisions is guilty of a Class H felony if the victim is under the age of 18 when the violation occurs.

Under current law, a person who posts or publishes a representation of a nude or partially nude person or a person engaging in sexual conduct, knowing that the representation of the person is a private representation, is guilty of a Class A

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misdemeanor. Under the bill, the person is guilty of a Class I felony if the victim is under the age of 18 when the violation occurs.

Under current law, a person who intentionally captures a representation of a nude or partially nude person in a locker room without that person's consent but who does not exhibit, distribute, or transmit the representation, is guilty of a Class B misdemeanor. Under the bill, a person who violates this provision is guilty of a Class A misdemeanor, except that if the victim is under the age of 18 when the violation occurs, the person is guilty of a Class I misdemeanor.

Under current law, a person who intentionally captures and exhibits, distributes, or transmits a representation of a nude or partially nude person in a locker room without that person's consent is guilty of a Class A misdemeanor. Under the bill, a person who violates this provision is guilty of a Class I felony, except that if the victim is under the age of 18 when the violation occurs, the person is guilty of a Class H felony.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 942.08 (2) (intro.) of the statutes is amended to read:

2 942.08 (2) (intro.) ~~Whoever~~ Except as provided in sub. (3), whoever does any
3 of the following is guilty of a Class A misdemeanor:

4 **SECTION 2.** 942.08 (3) of the statutes is created to read:

5 942.08 (3) A person who commits a violation specified under sub. (2) is guilty
6 of a Class I felony if a victim of the violation had not, at the time of the violation,
7 attained the age of 18 years.

8 **SECTION 3.** 942.09 (2) (am) (intro.) of the statutes is amended to read:

9 942.09 (2) (am) (intro.) ~~Whoever~~ Except as provided in par. (dm), whoever does
10 any of the following is guilty of a Class I felony:

11 **SECTION 4.** 942.09 (2) (dm) of the statutes is created to read:

12 942.09 (2) (dm) Except as provided in par. (bm), a person who commits a
13 violation specified under par. (am) is guilty of a Class H felony if the person depicted

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1 in violation of par. (am) had not, at the time of the violation, attained the age of 18
2 years.

3 **SECTION 5.** 942.09 (3m) (a) (intro.) of the statutes is amended to read:

4 942.09 (3m) (a) (intro.) ~~Whoever~~ Except as provided in par. (am), whoever does
5 any of the following is guilty of a Class A misdemeanor:

6 **SECTION 6.** 942.09 (3m) (am) of the statutes is created to read:

7 942.09 (3m) (am) A person who commits a violation specified under par. (a) is
8 guilty of a Class I felony if the person depicted or represented in the violation of par.
9 (a) had not, at the time of the violation, attained the age of 18 years.

10 **SECTION 7.** 942.09 (5) (a) (intro.) of the statutes is amended to read:

11 942.09 (5) (a) (intro.) ~~Whoever~~ Except as provided in par. (am), whoever, while
12 present in a locker room, intentionally captures a representation of a nude or
13 partially nude person while the person is nude or partially nude in the locker room
14 is guilty of a Class ~~B~~ A misdemeanor. This paragraph does not apply if the person
15 consents to the capture of the representation and one of the following applies:

16 **SECTION 8.** 942.09 (5) (am) of the statutes is created to read:

17 942.09 (5) (am) A person who commits a violation specified under par. (a) is
18 guilty of a Class I felony if the person represented in violation of par. (a) had not, at
19 the time of the violation, attained the age of 18 years.

20 **SECTION 9.** 942.09 (5) (b) 1. (intro.) of the statutes is amended to read:

21 942.09 (5) (b) 1. (intro.) ~~Whoever~~ Except as provided in par. (bn), whoever
22 intentionally does any of the following is guilty of a Class ~~A misdemeanor~~ I felony:

23 **SECTION 10.** 942.09 (5) (bn) of the statutes is created to read:

