

**2001 DRAFTING REQUEST**

**Bill**

Received: 02/19/2001

Received By: mdsida

Wantcd: As time permits

Identical to LRB:

For: Carol Roessler (608) 266-5300

By/Representing: Sara

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies: rlr

Submit via email: NO

**Pre Topic:**

No specific pre topic given

**Topic:**

Peeping toms

**Instructions:**

Redraft 1999 LRB 3969/P1; if possible, move prohibition to ch. 944

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 08/31/2001	jdycr 09/10/2001		_____			S&L
/1		jdycr 09/19/2001	jfrantze 09/11/2001	_____	lrb_docadmin 09/11/2001		S&L
/2	mdsida 11/15/2001	jdycr 11/15/2001	jfrantze 09/19/2001	_____	lrb_docadmin 09/19/2001	lrb_docadminS&L 09/20/2001	
/3			pgreensl 11/15/2001	_____	lrb_docadmin 11/15/2001	lrb_docadmin 11/15/2001	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For: *Atintro,*

<END>

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GMM  
Rep. Meyerhofer

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/1		jdyer 09/19/2001	jfrantze 09/11/2001	<u>11/15</u> <u>PS/RS</u>	lrb_docadmin 09/11/2001		S&L
/2		<u>13</u> <u>11/15</u> <u>jd</u>	jfrantze 09/19/2001		lrb_docadmin 09/19/2001	lrb_docadmin 09/20/2001	

FE Sent For:

11/15  
PS

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/?	mdsida 08/31/2001	jdye 09/10/2001					S&L
/1		1/2 9/19 jw	jfrantz 09/11/2001		lr_b_docadmin 09/11/2001		

FE Sent For:

*Handwritten signatures and dates:*  
 9/19/01  
 9/19/01  
 9/19/01  
 <END>

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1/?	mdsida	1/9/10 jld	9/1/10	[Signature]			

FE Sent For:

<END>

**Dsida, Michael**

---

**From:** Dsida, Michael  
**Sent:** Monday, May 14, 2001 11:17 AM  
**To:** Jermstad, Sara  
**Subject:** Invasion of privacy bill request

You had asked that, in redrafting 1999 LRB-3969/P1, we move the prohibitions created in the bill into ch. 944 of the statutes. That could be done, if it were not for section 4 of the bill, since the subject matter of current s. 942.08 and your bill's section 3 are very similar to what is covered by s. 944.205 (2) (a). But the subject matter covered by section 4 of that bill is much more similar to what is covered by other provisions in ch. 942 (such as s. 942.05 or 942.07 (3)) than it is to anything in ch. 944. Those similarities may necessitate keeping the prohibitions created by your bill in ch. 942. If, however, you are willing to exclude what is in section 4 of last session's bill from this session's version of it, the rest of the bill's provisions could be moved into ch. 944.

Please let me know how you would like me to proceed.

Mike Dsida  
Legislative Reference Bureau  
608/266-9867  
michael.dsida@legis.state.wi.us

Plc Det. Johnson from Town of Menasha

Sen. Roessler

Wants to treat it as a sex offense

Wants to make ~~the person~~ person ~~that~~ subject to registration  
at judge's discretion

1) Will fax me DOC registration stuff re ch. 944  
offenses

2) Will have Sen. Roessler's off. call me w/  
further instructions

# Town of Menasha Police Department

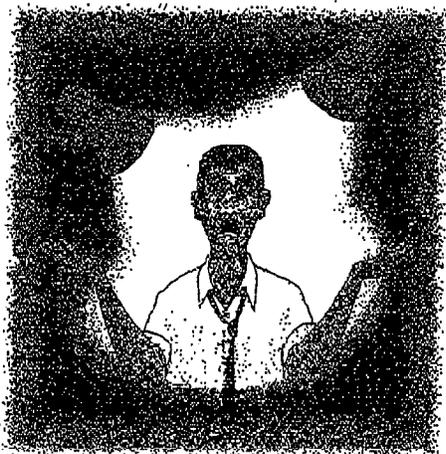
2000 Municipal Drive, Neenah, WI 54956  
Telephone: 920-720-7109 Fax: 920-720-7119  
email - TMPD@town-menasha.com

## FAX TRANSMISSION COVER SHEET

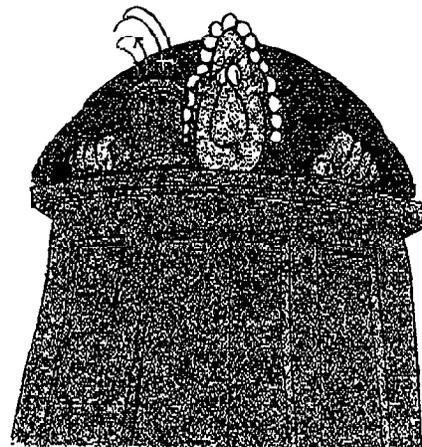
Date: 07-17-01 Time: \_\_\_\_\_  
To: MIKE DSEDA  
Fax: (608) 2646948  
Subject: WINDOW PEERING LAW  
Sender: DETECTIVE CHARYL JOHNSON

YOU SHOULD RECEIVE ( 3 ) PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL 920-720-7109

The documents accompanying this telecopy transmission contain information from the Town of Menasha Police Department, which is confidential and/or privileged. This information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited, and may constitute an invasion of the privacy of the intended recipient. If you have received this telecopy in error, please notify us by telephone immediately so that we can arrange for the retrieval of the transmitted document at no cost to you.



**THE FAX  
PLEASE,  
JUST THE  
FAX!**



Mike,

please let me know what you  
think as soon as possible or if there  
are any changes we need to make -

Thanks  
Det. Cheryl Pina  
(920) 220-7109

## WINDOW PEEKING LAW

**944??** -Whoever looks into a private place or dwelling with the intent to intrude or interfere with the privacy of another for the purpose of sexual arousal and without the consent of any person who is present in the dwelling or private place is guilty of a Class "A" misdemeanor.

### OR.....

Same statute but broken down into two sub sections....prefaced by "Whoever does any of the following is guilty of a Class "A" misdemeanor.

**944.?(A)** -Looks into a private place in which a person may reasonably expect to be nude or partially nude without the consent of any person who is present in the private place for the purpose of sexual arousal.

**944.?(B)** -Looks into the dwelling of another with the intent to intrude upon or interfere with the privacy of another for the purpose of sexual arousal and without the consent of any person who is present in the dwelling.

**Dsida, Michael**

---

**From:** Kok, Melissa  
**Sent:** Friday, June 08, 2001 10:19 AM  
**To:** Dsida, Michael  
**Subject:** Window peeking legislation

Michael,

Today I talked to Detective Johnson, who informed me that she talked to you regarding the draft on window peeking legislation. From what I understand, the legislative assistant who previously was working on this issue informed you that the change to the first draft was to have the draft as a privacy chapter and should move to Chapter 944--sexual morality. Chapter 944 before sex, adultery, and sexual gratification. Also, it is okay for you to talk to Detective Cheryl Johnson directly. Her phone number is: 920-720-7159.

Thank you for your time,  
Melissa Kok  
Office of Senator Roessler  
melissa.kok@legis.state.wi.us

*P/c to Det. Johnson -  
wants to reg. <sup>sex off</sup> registration.*



2001 BILL

msd

JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

with the department of corrections

Soon

NO 4 The bill also requires anyone who violates this prohibition or who violates the existing prohibition regarding installing or using a surveillance device to register as a sex offender.

Regen

1 AN ACT to renumber and amend 942.08 (2); to amend 942.08 (1) (b); and to  
2 create 942.08 (2) (b) and 942.08 (2) (c) of the statutes; relating to: invasion of  
3 privacy and providing a penalty.

**Analysis by the Legislative Reference Bureau**

Under current law, no person may knowingly install a surveillance device in any private place or use a surveillance device that has been installed in a private place with the intent to observe any nude or partially nude person without the consent of the person observed. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

This bill prohibits a person from doing any of the following: 1) looking into a private place in which a person may reasonably be expected to be nude or partially nude, with the intent to intrude upon or interfere with the privacy of another and without the consent of any person who is present in the private place; or 2) looking into the dwelling of another, with the intent to intrude upon or interfere with the privacy of another, and without the consent of any person who is present in the dwelling. A person who violates either of the prohibitions created in the bill may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

if the person looking does so for the purpose of sexual arousal

for the purpose of sexual arousal

FE: state + local ✓

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

4 SECTION 1. 942.08 (1) (b) of the statutes is amended to read:

Asent 1/3 ✓

Pw/F

942.08 (1) (b) "Private place" means a place where a person may reasonably expect to be safe from surveillance being observed without his or her knowledge and consent.

Pw/F

SECTION 2. 942.08 (2) of the statutes is renumbered 942.08 (2) (intro.) and amended to read:

942.08 (2) (intro.) Whoever knowingly does any of the following is guilty of a Class A misdemeanor:

(a) Knowingly installs a surveillance device in any private place, or uses a surveillance device that has been installed in a private place, with the intent to observe any nude or partially nude person without the consent of the person observed is guilty of a Class A misdemeanor.

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

942.08 (2) (b) Looks into a private place in which a person may reasonably be expected to be nude or partially nude with the intent to intrude upon or interfere with the privacy of another and without the consent of any person who is present in the private place.

Insert 2/13

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

942.08 (2) (c) Looks into the dwelling of another with the intent to intrude upon or interfere with the privacy of another and without the consent of any person who is present in the dwelling.

Insert 2/18

SECTION 5. Initial applicability.

(1) This act first applies to offenses committed on the effective date of this subsection.

(END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2568/lins  
MGD:.....

1 INSERT 1/3

2 SECTION 1. 301.45 (1d) (b) of the statutes is amended to read:

3 301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy  
4 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 942.08, 944.06,  
5 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11  
6 (2) (a) or (am), 948.12, 948.13 or 948.30, or of s. 940.30 or 940.31 if the victim was a  
7 minor and the person who committed the violation was not the victim's parent.

8 History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; s. 13.93 (2) (c).

8 INSERT 2/13

9 (b) For the purpose of sexual arousal and without the consent of any person who  
10 is present in the private place, looks into a private place in which a person may  
11 reasonably be expected to be nude or partially nude.

12 INSERT 2/18

13 (c) Looks into the dwelling of another for the purpose of sexual arousal, with  
14 the intent to intrude upon or interfere with the privacy of another, and without the  
15 consent of any person who is present in the dwelling.



PAUL R. MORSE  
CHIEF

# DEPARTMENT OF POLICE

CITY OF KAUKAUNA, WISCONSIN

201 WEST SECOND STREET  
P.O. BOX 890  
KAUKAUNA, WI 54130  
PHONE: (920) 766-6333  
FAX: (920) 766-6345



JOHN N. MANION  
ASSISTANT CHIEF

## FAX COVER SHEET

DATE: 09 / 14 / 01

TO: \_\_\_\_\_

ATTN: Mike Osida

FAX# (608) 264-6948 TIME SENT: \_\_\_\_\_ : \_\_\_\_\_ am pm

FROM: Asst. Chief Manion - Det. Cheryl Johnson

MESSAGE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Notice: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited (Wisconsin Statutes 146.81-146.83, 51.30.) If you receive this communication in error, please notify the sender immediately by telephone at the number listed.*

TOTAL PAGES: 2 (INCLUDING THIS PAGE)

\*If all pages are not received, please call (920) 766-6333 immediately. Thank you.

**KAUKAUNA...THE ELECTRIC CITY!**

Sept. 14, 2001

Mr. Dsida:

These are changes that we made with the wording of the Bill after reviewing this with a circuit court judge. His comments were that the wording was too broad in both subsections. He thought it should be more defined for a private place in one and a public place in another.

Det. Johnson and myself did work on this and came up with this type of wording. Rep. Meyerhofer was here with us talking about this also. Rep. Meyerhofer did have a question about whether or not we should define sexual arousal. The judge said it is commonly accepted in the judicial arena and was not concerned with specifically defining that term. What do you think?

We are faxing this to you because Rep. Meyerhofer would like to get this in this session and so would we. Please call Cheryl or myself when you get this because we are looking to hopefully get it to Sen. Roessler and Rep. Meyerhofer by the end of the week (Sept. 21, 01)

Thanks for your help Mike,

John Manion and d Cheryl Johnson

**Revised Legislation 09-14-01 By Det. Cheryl Johnson and A.C. John Manion**

**942.08 (2)(b)**

For the purpose of sexual arousal and without consent of any person who is present in a private place open to the public, looks into that private place in which a person may reasonably be expected to be nude or partially nude.

**942.08 (2) (c)**

Whoever enters upon the private property and looks into the dwelling of another for the purpose of sexual arousal, with the intent to intrude upon or interfere with the privacy of another and without the consent of any person who is present in the dwelling

Dsida, Michael

**From:** Dsida, Michael  
**Sent:** Monday, September 17, 2001 1:57 PM  
**To:** 'Johnson, Cheryl'  
**Subject:** RE: Peeping tom draft -- sub. (2) (c)

Does the property that the person enters have to be occupied by the person (or the host of the person) whose privacy is invaded? Or can it be a neighbor's property? I assume you want to cover peeping from neighbor's property, but would that require proving: (1) that the person did not have consent from the neighbor to enter that property and (2) the person did not have consent from the victim of the peeping? *Can be a neighbor's prop,*

*Manion - but has to be those who neighbor's consent*

-----Original Message-----

**From:** Johnson, Cheryl [mailto:Cheryl@town-menasha.com]  
**Sent:** Monday, September 17, 2001 10:54 AM  
**To:** Dsida, Michael  
**Subject:** RE: Peeping tom draft

hi mike...that would be fine...do what you have to to the wording...and yes...we are trying to cover rest rooms and locker rooms...etc....thanks...cheryl

-----  
**From:** Dsida, Michael[SMTP:Michael.Dsida@legis.state.wi.us]  
**Sent:** Monday, September 17, 2001 10:48 AM  
**To:** Johnson, Cheryl; 'manionj@kaukauna-wi.org'  
**Subject:** Peeping tom draft

I reviewed your fax this morning. (I was out of the office on Friday.) The change that you suggest for sub. (2) (c) makes sense, but I will probably need to make some changes to the language you recommended for sub. (2) (b). Are you trying to cover places like public restrooms, dressing rooms in clothing stores, and similar places?

I have left a message for Rep. Meyerhofer. I don't think we need a definition for sexual arousal. A number of other statutes use that term (for example, the definition of "sexual contact" in s. 939.22 (34)), and I don't think judges or juries have had too much of a problem applying them. But his call to me made me realize that for consistency's sake, this bill should probably refer to "sexual arousal or sexual gratification."

- > Mike Dsida
- > Legislative Reference Bureau
- > 608/266-9867
- > michael.dsida@state.legis.wi.us

*P/c from Manion - "Place of public accommodation."  
Told him I would prob use "Place of public accommodation."  
Told him that that would mean hotel room  
wd be covered under (2) (b), even w/o  
trespass.*



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2568/D

MGD:jld:jf

2

Wed  
5 pm

2001 BILL

Wetrick Frankel

or gratification ✓

Regen

- 1 AN ACT *to renumber and amend* 942.08 (2); *to amend* 301.45 (1d) (b) and
- 2 942.08 (1) (b); and *to create* 942.08 (2) (b) and 942.08 (2) (c) of the statutes;
- 3 **relating to:** invasion of privacy and providing a penalty.

***Analysis by the Legislative Reference Bureau***

Under current law, no person may knowingly install a surveillance device in any private place or use a surveillance device that has been installed in a private place with the intent to observe any nude or partially nude person without the consent of the person observed. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

This bill prohibits a person from doing any of the following: 1) looking into a private place in which a person may reasonably be expected to be nude or partially nude, if the person looking does so for the purpose of sexual arousal, and without the consent of any person who is present in the private place; or 2) looking into the dwelling of another for the purpose of sexual arousal, with the intent to intrude upon or interfere with the privacy of another, and without the consent of any person who is present in the dwelling. A person who violates either of the prohibitions created in the bill may be fined not more than \$10,000 or imprisoned for not more than nine months or both. The bill also requires anyone who violates this prohibition or who violates the existing prohibition regarding installing or using a surveillance device to register with the department of corrections as a sex offender.

**BILL**

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.** 301.45 (1d) (b) of the statutes is amended to read:

2           301.45 (1d) (b) “Sex offense” means a violation, or the solicitation, conspiracy  
3 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 942.08, 944.06,  
4 948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11  
5 (2) (a) or (am), 948.12, 948.13 or 948.30, or of s. 940.30 or 940.31 if the victim was a  
6 minor and the person who committed the violation was not the victim’s parent.

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

8           942.08 (1) (b) “Private place” means a place where a person may reasonably  
9 expect to be safe from surveillance being observed without his or her knowledge and  
10 consent.

11           **SECTION 3.** 942.08 (2) of the statutes is renumbered 942.08 (2) (intro.) and  
12 amended to read:

13           942.08 (2) (intro.) Whoever knowingly does any of the following is guilty of a  
14 Class A misdemeanor:

15           (a) Knowingly installs a surveillance device in any private place, or uses a  
16 surveillance device that has been installed in a private place, with the intent to  
17 observe any nude or partially nude person without the consent of the person observed  
18 is guilty of a Class A misdemeanor.

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

**BILL**

*or gratification*

1 942.08 (2) (b) For the purpose of sexual arousal and without the consent of any  
2 person who is present in the private place, looks into a private place, in which a person  
3 may reasonably be expected to be nude or partially nude.

*that is or is part of  
a public accommodation, as  
defined in s. 134.48(1)(b),  
and*

4 **SECTION 5.** 942.08 (2) (c) of the statutes is created to read:

5 942.08 (2) (c) *Looks into the dwelling of another* for the purpose of sexual  
6 arousal, with the intent to intrude upon or interfere with the privacy of another, and  
7 without the consent of any person who is present in the dwelling

*move*

8 **SECTION 6. Initial applicability.**

9 (1) This act first applies to offenses committed on the effective date of this  
10 subsection.

11 (END)

*#3  
Enters private property without the consent of  
any person present on the property and*



STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

September 19, 2001

### MEMORANDUM

To: Senator Roessler

From: Michael Dsida, Legislative Attorney

Re: LRB-2568/2 Peeping toms

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

\_\_\_ JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266 3561 if you have any questions regarding this memorandum.

- ~~Rep~~ Melissa - Sen. Koester

Deferred prosecution for < 18 y.o.

Expunged ~~at~~ at 18 y.o. if only one offense

If only 1 conviction - expungement

Required if

< 18 at time of offense

No priors

Comply w/ terms of dispo order or 973.015



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-2568(2)

MGD:jld:jf

D-Note

3

2001 BILL

~~retrieve from  
hold~~

soon

Regen

- 1 AN ACT to renumber and amend 942.08 (2); to amend 301.45 (1d) (b) and
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- 3 relating to: invasion of privacy and providing a penalty.

*Analysis by the Legislative Reference Bureau*

Under current law, no person may knowingly install a surveillance device in any private place or use a surveillance device that has been installed in a private place with the intent to observe any nude or partially nude person without the consent of the person observed. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

This bill prohibits a person from doing any of the following: 1) looking into a private place in which a person may reasonably be expected to be nude or partially nude, if the person looking does so for the purpose of sexual arousal or gratification and without the consent of any person who is present in the private place; or 2) looking into the dwelling of another for the purpose of sexual arousal or gratification, with the intent to intrude upon or interfere with the privacy of another, and without the consent of any person who is present in the dwelling. A person who violates either of ~~the~~ prohibitions ~~created in the bill~~ may be fined not more than \$10,000 or imprisoned for not more than nine months or both. The bill also requires anyone who violates ~~this~~ prohibition or who violates the existing prohibition regarding installing or using a surveillance device to register with the department of corrections as a sex offender.

these  
"peeping tom"

one of  
the  
peeping  
tom

Analysis  
INS

(Doc)

**BILL**

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. 301.45 (1d) (b) of the statutes is amended to read:~~

2 ~~301.45 (1d) (b) "Sex offense" means a violation, or the solicitation, conspiracy~~  
 3 ~~or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 942.08, 944.06,~~  
 4 ~~948.02 (1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.08, 948.095, 948.11~~  
 5 ~~(2) (a) or (am), 948.12, 948.13 or 948.30, or of s. 940.30 or 940.31 if the victim was a~~  
 6 ~~minor and the person who committed the violation was not the victim's parent.~~

2/6 7 SECTION 2. 942.08 (1) (b) ✓ of the statutes is amended to read:

8 942.08 (1) (b) "Private place" means a place where a person may reasonably  
 9 expect to be safe from surveillance being observed without his or her knowledge and  
 10 consent.

11 SECTION 3. 942.08 (2) ✓ of the statutes is renumbered 942.08 (2) (intro.) and  
 12 amended to read:

13 942.08 (2) (intro.) Whoever knowingly does any of the following is guilty of a  
 14 Class A misdemeanor:

15 (a) Knowingly installs a surveillance device in any private place, or uses a  
 16 surveillance device that has been installed in a private place, with the intent to  
 17 observe any nude or partially nude person without the consent of the person observed  
 18 is guilty of a Class A misdemeanor.

19 SECTION 4. 942.08 (2) (b) ✓ of the statutes is created to read:

20 942.08 (2) (b) For the purpose of sexual arousal or gratification and without the  
 21 consent of any person who is present in the private place, looks into a private place

**BILL**

1 that is or is part of a public accommodation, as defined in s. 134.48 (1) (b), and in  
2 which a person may reasonably be expected to be nude or partially nude.

3 **SECTION 5.** 942.08 (2) (c) of the statutes is created to read:

4 942.08 (2) (c) Enters private property without the consent of any person  
5 present on the property and, for the purpose of sexual arousal or gratification, with  
6 the intent to intrude upon or interfere with the privacy of another, and without the  
7 consent of any person who is present in the dwelling, looks into the dwelling of  
8 another.

NS ✓  
3/8

9 **SECTION 6. Initial applicability.**

10 (1) This act first applies to offenses committed on the effective date of this  
11 subsection.

12 (END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2568/jdn  
MGD:.....

(3)

jld

Sara:

The changes that I made in the bill (relating to expungement) are based on directions that I received from Lori Youngman in Rep. Meyerhofer's office.

Michael Dsida  
Legislative Attorney  
Phone: (608) 266-9867

don't make retroactive

99 LRB-1407 ⇒ ~~became~~ became what became Act '89  
Change Note in 301.45 (where I need to) acct for fact that  
They won't be res'd for 15 yrs  
Subject to 10% reduction in Byrne Grants

*[Handwritten signature]*

*if a person's delinquency adjudication or conviction record is expunged in this manner,*

1

**analysis INSERT**

This bill also contains provisions relating to expunging a delinquency adjudication or a conviction based on a violation of one of the peeping tom prohibitions. Under current law, a juvenile who has been adjudged delinquent for any offense may, after attaining 17 years of age, petition the court to expunge the record of the adjudication. The court may expunge the record if it determines that the juvenile has satisfactorily complied with the conditions of the dispositional order and that the juvenile will benefit and society will not be harmed by the expungement. Current law also provides that, if a person was under the age of 21 at the time of committing an offense for which he or she has been found guilty and the maximum penalty for the offense is imprisonment for one year or less in the county jail, the court may, if it determines the person will benefit and society will not be harmed by this disposition, order at the time of sentencing that the record be expunged upon successful completion of the sentence. This bill requires the court to expunge a juvenile's delinquency adjudication if the peeping tom violation was the juvenile's first and if he or she complied with the dispositional order. Similarly, the bill requires the court to order that the record of a person's peeping tom conviction be expunged upon successful completion of the sentence if the person was under 18 at the time of the offense and he or she had no prior peeping tom convictions. Finally, the bill requires DOC to expunge the record of the person's delinquency adjudication or conviction from the sex offender registry if the adjudication or conviction is itself expunged.

*person is no longer required to register as a sex offender and*

*years old*

2

**INSERT 2/6**

*, unless the person is required to register as a sex offender - based on the commission of another sex offense*

3

**SECTION 1. 301.45 (1d) (b) of the statutes is renumbered 301.45 (1d) (b) (intro.)**

4

and amended to read:

5

**301.45 (1d) (b) (intro.) "Sex offense" means any of the following:**

6

**1. A violation, or the solicitation, conspiracy or attempt to commit a violation,**

7

of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05,

8

948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13 or

9

948.30, or,

10

**2. A violation, or the solicitation, conspiracy, or attempt to commit a violation,**

11

of s. 940.30 or 940.31 if the victim was a minor and the person who committed the

12

violation was not the victim's parent.

1 SECTION 2. 301.45 (1d) (b) 3. of the statutes is created to read:

2 301.45 (1d) (b) 3. A violation, or the solicitation, conspiracy, or attempt to  
3 commit a violation, of s. 942.08 (2) occurring on or after the effective date of this  
4 subdivision [revisor inserts date].

5 SECTION 3. 301.45 (1m) (title) of the statutes is amended to read:

6 301.45 (1m) (title) EXCEPTION TO REGISTRATION REQUIREMENT, UNDERAGE SEXUAL  
7 ACTIVITY.

8 History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; s. 13.93 (2) (c).

9 SECTION 4. 301.45 (1p) of the statutes is created to read:

10 301.45 (1p) EXCEPTION TO REGISTRATION REQUIREMENT; EXPUNGEMENT OF ~~DELINQUENCY~~  
11 ~~CONVICTION~~ CONVICTION. A person who is covered under sub. (1g) based solely on a  
12 delinquency adjudication or conviction for a violation of s. 942.08 (2) (b) or (c) is not  
13 required to comply with the reporting requirements under this section if the  
14 delinquency adjudication is expunged under s. 938.355 (4m) (b) or if the conviction  
15 is expunged under s. 973.015 (2).

CS  
invasion of privacy

16 SECTION 5. 301.45 (7) (e) of the statutes is created to read:

17 301.45 (7) (e) The department shall purge all of the information maintained  
18 in the registry under sub. (2) concerning a person to whom sub. (1p) applies if ~~either~~ any  
19 of the following occurs:

- 20 1. The department receives notice under s. 938.355 (4m) (b) that a court has  
21 expunged the record of the person's delinquency adjudication for the violation  
22 described in sub. (1p).
- 23 2. The department issues a certificate of discharge under s. 973.015 (2).
- 24 3. The department receives a certificate of discharge issued under s. 973.015  
(2) by ~~the~~ *the* detaining authority ~~other than the department.~~

*the*

1           **SECTION 6.** 938.355 (4m) <sup>X</sup> of the statutes is renumbered 938.355 (4m) (a) and  
2 amended to read:

3           938.355 (4m) (a) A juvenile who has been adjudged delinquent may, on  
4 attaining 17 years of age, petition the court to expunge the court's record of the  
5 juvenile's adjudication. The Subject to par. (b), <sup>✓</sup> the court may expunge the court's  
6 record of the juvenile's adjudication if the court determines that the juvenile has  
7 satisfactorily complied with the conditions of his or her dispositional order and that  
8 the juvenile will benefit and society will not be harmed by the expungement.

9 History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, <sup>X</sup>103.

**SECTION 7.** 938.355 (4m) (b) of the statutes is created to read:

10           938.355 (4m) (b) The court shall expunge the court's record of a juvenile's  
11 adjudication if it was the juvenile's first adjudication based on a violation of s. 942.08  
12 (2) (b) <sup>✓</sup> or (c) and if the court determines that the juvenile has satisfactorily complied  
13 with the conditions of his or her dispositional order. Notwithstanding s. <sup>✓</sup>938.396 (2)  
14 (a), the court shall notify the department promptly of any expungement under this  
15 paragraph. <sup>✓</sup>

16           **INSERT 3/8**

17           **SECTION 8.** 973.015 (1) of the statutes is renumbered <sup>X</sup> 973.015 (1) (a) and  
18 amended to read:

19           973.015 (1) (a) ~~When~~ Subject to par. (b), <sup>✓</sup> when a person is under the age of 21  
20 at the time of the commission of an offense for which the person has been found guilty  
21 in a court for violation of a law for which the maximum penalty is imprisonment for  
22 one year or less in the county jail, the court may order at the time of sentencing that



1 the record be expunged upon successful completion of the sentence if the court  
2 determines the person will benefit and society will not be harmed by this disposition.

3 History: 1975 c. 39; 1975 c. 189 s. 105; 1975 c. 199; 1983 a. 519; 1991 a. 189.

3 SECTION 9. 973.015 (1) (b) of the statutes is created to read:

4 973.015 (1) (b) The court shall order at the time of sentencing that the record  
5 be expunged upon successful completion of the sentence if the offense was a violation  
6 of s. 942.08 (2) (b) or (c) and the person was under the age of 18 when he or she  
7 committed it. The court shall notify the department promptly of any expungement  
8 under this paragraph.

9 SECTION 10. 973.015 (2) of the statutes is amended to read:

10 973.015 (2) A person has successfully completed the sentence if the person has  
11 not been convicted of a subsequent offense and, if on probation, the probation has not  
12 been revoked and the probationer has satisfied the conditions of probation. Upon  
13 successful completion of the sentence the detaining or probationary authority shall  
14 issue a certificate of discharge which shall be forwarded to the court of record and  
15 which shall have the effect of expunging the record. If the detaining authority is not  
16 the department, the detaining authority shall also forward a copy of the certificate  
17 of discharge to the department.

History: 1975 c. 39; 1975 c. 189 s. 105; 1975 c. 199; 1983 a. 519; 1991 a. 189.

(end ins)

person has been imprisoned in the county jail, the

person has been imprisoned

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2568/3dn  
MGD:jld:pg

November 15, 2001

Sara:

The changes that I made in the bill (relating to expungement) are based on directions that I received from Lori Youngman in Rep. Meyerhofer's office.

Michael Dsida  
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