

**2005 DRAFTING REQUEST**

**Bill**

Received: **11/17/2004**

Received By: **mlief**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters: **csundber  
mdsida**

Subject: **Higher Education - miscellaneous  
Education - miscellaneous  
Criminal Law - miscellaneous  
Trade Regulation - other**

Extra Copies: **MJL**

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Written policies on entering locker rooms

**Instructions:**

See Attached

**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>
/?	pgrant 11/17/2004	kfollett 11/22/2004					
/1			chaugen 11/22/2004		lemery 11/22/2004		S&L Crime
/2	mlief	lkunkel	rschluet		sbasford	Inorthro	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	11/24/2004	12/03/2004	01/24/2005	_____	01/24/2005	01/24/2005	
	pgrant	lkunkel		_____			
	12/03/2004	01/21/2005		_____			
	mdsida			_____			
	01/21/2005			_____			

FE Sent For: *at intro*  
*6/10*

<END>

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	pgrant	lkunkel		_____			
	12/03/2004	01/21/2005		_____			
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/1			chaugen 11/22/2004		lemery 11/22/2004		
/2	mlief	lkunkel					

Handwritten signature and initials over the drafting history table, including the name 'chaugen' and the date '11/22/2004'.

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

11/24/2004    12/03/2004

pgrant

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*1/2 mk 1/21*

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/?	pgrant	1/1 kjk 11/22	ch 11-22	ch 11/22			

FE Sent For:

<END>

PG + 0886/1  
LRB-00241  
MJL/mg/pg  
:kjf

2003<sup>s</sup> BILL

Regen

1 AN ACT *to create* 36.38, 38.12 (12), 39.49, 118.39 and 175.22 of the statutes;  
2 relating to: written policies on entering locker rooms being used by athletic  
3 teams representing certain schools or by professional athletic teams.

*Analysis by the Legislative Reference Bureau*

This bill requires each school board, private school, technical college district board, institution and two-year collegiate campus of the University of Wisconsin System, private institution of higher education, and professional athletic team that has its home field or arena in this state to adopt a written policy on who may enter and remain in a locker room used by the school or team to interview or seek information from any person. The policy must reflect the privacy interests of the members of the teams representing the school or the professional athletic team.

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

4 SECTION 1. 36.38 of the statutes is created to read:  
5 **36.38 Policy on privacy in athletic locker rooms.** Each institution and  
6 college campus shall adopt a written policy on who may enter and remain, to  
7 interview or seek information from any person, in a locker room being used by an

**BILL**

1 athletic team representing the institution or college campus. The policy shall reflect  
2 the privacy interests of members of athletic teams representing the institution or  
3 college campus.

4 **SECTION 2.** 38.12 (12) of the statutes is created to read:

5 38.12 (12) **POLICY ON PRIVACY IN ATHLETIC LOCKER ROOMS.** The district board shall  
6 adopt a written policy on who may enter and remain, to interview or seek information  
7 from any person, in a locker room being used by an athletic team representing the  
8 district. The policy shall reflect the privacy interests of members of athletic teams  
9 representing the district.

10 **SECTION 3.** 39.49 of the statutes is created to read:

11 **39.49 Policy on privacy in athletic locker rooms.** (1) In this section,  
12 “institution of higher education” means a private educational institution that  
13 awards a bachelor’s or higher degree or provides a program that is acceptable for  
14 credit toward such a degree, and that fields an athletic team that represents the  
15 institution.

16 (2) Each institution of higher education shall adopt a written policy on who  
17 may enter and remain, to interview or seek information from any person, in a locker  
18 room being used by an athletic team representing the institution. The policy shall  
19 reflect the privacy interests of members of athletic teams representing the  
20 institution.

21 **SECTION 4.** 118.39 of the statutes is created to read:

22 **118.39 Policy on privacy in athletic locker rooms.** Each school board, and  
23 the governing body of each private school that fields an athletic team representing  
24 the school, shall adopt a written policy on who may enter and remain, to interview  
25 or seek information from any person, in a locker room being used by an athletic team

**BILL**

1 representing the private school or representing a public school in the school district.  
2 The policy shall reflect the privacy interests of members of athletic teams  
3 representing the school.

4 **SECTION 5.** 175.22 of the statutes is created to read:

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Keep  
Do not delete

~~5 **175.22 Policy on privacy for professional athletic teams.** Any  
6 professional athletic team that has its home field or arena in this state shall adopt  
7 a written policy on who may enter and remain, to interview or seek information from  
8 any person, in a locker room used by the professional athletic team. The policy shall  
9 reflect the privacy interests of members of the professional athletic team.~~

10 **SECTION 6. Effective date.**

11 (1) This act takes effect on the first day of the 6th month beginning after  
12 publication.

13 (END)

*Handwritten note:*  
Keep

**Grant, Peter**

---

**From:** Schneider, Marlin  
**Sent:** Monday, November 22, 2004 4:30 PM  
**To:** Grant, Peter  
**Subject:** Submitted: LRB 05-0886/1 Topic: Written policies on entering locker rooms?body=

I would like this draft to include a provision which bans the use of cell phone cameras or similar recording devices not allowed by the policy into locker rooms. The fine for taking pictures in a locker room in violation of the law or policy shall be \$10,000 and 9 months in jail.

*Conrad -  
Conrad for this one?  
Thanks  
Peter*

Other

LRB-0886/2  
CTS, PG 15 MED: lmk

# 2005 BILL

who may enter and remain in the locker room to interview or seek information from any individual and what cameras or other devices that record or transfer images may be used in the locker room. The policy must reflect the privacy interests of the individuals who use the locker room.

Regen

privacy

including the states that

INS A

and providing a penalty

1 AN ACT to create 175.22 of the statutes; relating to: written policies on the use  
 2 of recording devices in locker rooms.

INS X

### Analysis by the Legislative Reference Bureau

This bill requires any person who owns or operates a locker room in this state to adopt a written policy on the use of recording devices in the locker room.

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

INS Y

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

3 SECTION 1. 175.22 of the statutes is created to read:

4 175.22 Policy on the use of recording devices in locker rooms. (1) In  
 5 this section:

6 (a) "Person" includes the state.

7 (b) "Recording device" means a camera, an audio or video recorder, or any other  
 8 device that may be used to record or transfer sounds or images.

**BILL**

1 (2) Any person that own<sup>s</sup> or operates a locker room in this state shall adopt a  
 2 written policy on the use of recording devices in the locker room. <sup>that does all of the</sup> following:

2-2A →  
 LPS: PLS change component

3 **SECTION 2. Effective date.**<sup>s</sup>

4 (1) This act takes effect on the first day of the 6th month beginning after  
 5 publication.

6 (END)

INS 2/2 B

takes effect on the day after publication, except as follows:

~~(1)~~ The treatment of section 175.22 of the statutes

## 2005 BILL

1 AN ACT *to renumber and amend* 942.09 (2), 942.09 (3) and 942.09 (4); and *to*  
 2 *create* 942.09 (1) (am) and 942.09 (5) of the statutes; **relating to:** capturing an INS A  
 3 image of a nude or partially nude person in a locker room; and providing a  
 4 penalty.

### *Analysis by the Legislative Reference Bureau*

Current law prohibits taking a photograph or making a motion picture, videotape, or other visual depiction of a nude person, or recording or storing data representing a depiction of a nude person, if: 1) when the depiction is created, its subject is nude under circumstances in which he or she has a reasonable expectation of privacy; 2) the subject has not consented to the creation of the depiction; and 3) the person who creates the depiction knows or has reason to know that the subject of the depiction has not provided that consent. Current law also prohibits a person from reproducing, distributing, or possessing such a depiction, or data representing such a depiction, without the consent of the subject of the depiction if the person knows or has reason to know that the depiction was unlawfully created. A person who violates one of these prohibitions may be fined of up to \$10,000 or sentenced to a term of imprisonment of up to five years (which, if the sentence is for more than one year, includes a term of confinement and a term of extended supervision) or both. These prohibitions do not apply to parents, guardians, and legal custodians when they produce or possess depictions of their children nude or when they distribute such depictions for other than commercial purposes.

INS X



**BILL**

NSX

This bill prohibits someone who is in a locker room from intentionally depicting a nude or partially nude person, through a photograph, motion picture, or other means described above, while the person is nude or partially nude in the locker room. A person who violates this prohibition may be fined of up to \$1,000 or sentenced to a term of imprisonment of up to 90 days or both. This prohibition does not apply if the person depicted nude or partially nude consents to the depiction and: 1) the person is, or the actor reasonably believes that the person is, 18 years of age or over when the person gives his or her consent; or 2) the person's parent, guardian, or legal custodian consents to the depiction. The bill also prohibits someone from intentionally: 1) depicting a nude or partially nude person while the actor is present in, and the person is nude or partially nude in, a locker room and exhibiting or distributing the depiction to another person; or 2) transmitting or broadcasting from a locker room an image of a nude or partially nude person while the person is nude or partially nude in the locker room. A person who violates this prohibition may be fined of up to \$1,000 or sentenced to a term of imprisonment of up to 90 days or both. This prohibition does not apply if the person depicted nude or partially nude consents to the exhibition or distribution of the representation or the transmission or broadcasting of the image and: 1) the person is, or the actor reasonably believes that the person is, 18 years of age or over when the person gives his or her consent; or 2) the person's parent, guardian, or legal custodian consents to the exhibition, distribution, transmission, or broadcast.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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:*

NS 2/2 B

1 SECTION 1. 942.09 (1) (am) of the statutes is created to read:  
 2 942.09 (1) (am) "Nude or partially nude person" has the meaning given in s.  
 3 942.08 (1) (a).  
 4 SECTION 2. 942.09 (2) of the statutes is renumbered 942.09 (2) (am), and 942.09  
 5 (2) (am) 2. and 3., as renumbered, are amended to read:  
 6 942.09 (2) (am) 2. Makes a reproduction of a representation that the person  
 7 knows or has reason to know was captured in violation of par. (a) subd. 1. and that

**BILL**

1 depicts the nudity depicted in the representation captured in violation of par. (a)  
2 subd. 1., if the person depicted nude in the reproduction did not consent to the  
3 making of the reproduction.

4 3. Possesses, distributes, or exhibits a representation that was captured in  
5 violation of ~~par. (a)~~ subd. 1. or a reproduction made in violation of ~~par. (b)~~ subd. 2.,  
6 if the person knows or has reason to know that the representation was captured in  
7 violation of ~~par. (a)~~ subd. 1. or the reproduction was made in violation of ~~par. (b)~~ subd.  
8 2., and if the person who is depicted nude in the representation or reproduction did  
9 not consent to the possession, distribution, or exhibition.

10 **SECTION 3.** 942.09 (3) of the statutes is renumbered 942.09 (2) (bm), and 942.09  
11 (2) (bm) (intro.) and 2., as renumbered, are amended to read:

12 942.09 (2) (bm) (intro.) Notwithstanding sub. (2) (a), (b), and (c) par. (am), if the  
13 person depicted nude in a representation or reproduction is a child and the capture,  
14 possession, exhibition, or distribution of the representation, or making, possession,  
15 exhibition, or distribution of the reproduction, does not violate s. 948.05 or 948.12,  
16 a parent, guardian, or legal custodian of the child may do any of the following:

17 2. Distribute or exhibit a representation captured or possessed under ~~par. (a)~~  
18 subd. 1., or distribute or exhibit a reproduction made or possessed under ~~par. (a)~~  
19 subd. 1., if the distribution or exhibition is not for commercial purposes.

20 **SECTION 4.** 942.09 (4) of the statutes is renumbered 942.09 (2) (cm) and  
21 amended to read:

22 942.09 (2) (cm) This ~~section~~ subsection does not apply to a person who receives  
23 a representation or reproduction depicting a child from a parent, guardian, or legal  
24 custodian of the child under ~~sub. (3) (b)~~ par. (bm) 2., if the possession, exhibition, or  
25 distribution is not for commercial purposes.

NS 2/2B

**BILL**

1 SECTION 5. 942.09 (5) of the statutes is created to read:

2 942.09 (5) (a) Whoever, while present in a locker room, intentionally captures  
3 a representation of a nude or partially nude person while the person is nude or  
4 partially nude in the locker room is guilty of a Class B misdemeanor. This paragraph  
5 does not apply if the person consents to the capture of the representation and one of  
6 the following applies:

7 1. The person is, or the actor reasonably believes that the person is, 18 years  
8 of age or over when the person gives his or her consent.

9 2. The person's parent, guardian, or legal custodian consents to the capture of  
10 the representation.

11 (b) 1. Whoever intentionally does any of the following is guilty of a Class A  
12 misdemeanor:

13 a. Captures a representation of a nude or partially nude person while the actor  
14 is present in, and the person is nude or partially nude in, the locker room and exhibits  
15 or distributes the representation to another.

16 b. Transmits or broadcasts an image of a nude or partially nude from a locker  
17 room person while the person is nude or partially nude in the locker room.

18 2. This paragraph does not apply if the person consents to the exhibition or  
19 distribution of the representation or the transmission or broadcast of the image and  
20 one fo the following applies:

21 a. The person is, or the actor reasonably believes that the person is, 18 years  
22 of age or over when the person gives his or her consent.

23 b. The person's parent, guardian, or legal custodian consents to the exhibition,  
24 distribution, transmission, or broadcast.

25 (END)

INS 2/2B

end of insert 2/2B

2-2A

in the locker room

(a) Specifies who may enter and remain to interview or seek information from any individual in the locker room.

(b) Specifies the <sup>recording</sup> recording devices that may be used in the locker room and the circumstances under which they may be used.

(c) Reflects the privacy interests of individuals who use the locker room.

**Northrop, Lori**

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**From:** Schneider, Marlin  
**Sent:** Monday, January 24, 2005 3:13 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-0886/2 Topic: Written policies on entering locker rooms

It has been requested by <Schneider, Marlin> that the following draft be jacketed for the ASSEMBLY:

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