2007 DRAFTING REQUEST

Bill

Received: **11/09/2006**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing:

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

Drafter: **phurley**

May Contact:

Addl. Drafters: **chanaman**

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Locker room photography and privacy policies

Instructions:

Redraft 2005 AB 475

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	csundber 11/09/2006 chanaman 11/09/2006 phurley 11/09/2006	kfollett 12/01/2006		_____ _____ _____ _____ _____ _____			S&L Crime
/1			rschluet 12/01/2006	_____ _____	sbasford 12/01/2006	sbasford 12/05/2006	

FE Sent For: at intro
11/12

<END>

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/?	csundber	/1 kjf 12/4					

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2005 ASSEMBLY BILL 475

June 9, 2005 – Introduced by Representative SCHNEIDER. Referred to Committee on Criminal Justice and Homeland Security.

AN ACT ***to renumber and amend*** 942.09 (2), 942.09 (3) and 942.09 (4); and ***to create*** 175.22, 942.09 (1) (am) and 942.09 (5) of the statutes; **relating to:** capturing an image of a nude or partially nude person in a locker room, written policies on privacy in locker rooms, and providing a 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.

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.

This bill also requires any person, including the state, that owns or operates a locker room in this state to adopt a written policy on 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.

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:

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

2 **175.22 Policy on privacy in locker rooms. (1)** In this section:

3 (a) "Person" includes the state.

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

(2) Any person that owns or operates a locker room in this state shall adopt a written policy that does all of the following:

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

(b) Specifies the 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.

SECTION 2. 942.09 (1) (am) of the statutes is created to read:

942.09 **(1)** (am) "Nude or partially nude person" has the meaning given in s. 942.08 (1) (a).

SECTION 3. 942.09 (2) of the statutes is renumbered 942.09 (2) (am), and 942.09 (2) (am) 2. and 3., as renumbered, are amended to read:

942.09 **(2)** (am) 2. Makes a reproduction of a representation that the person knows or has reason to know was captured in violation of ~~par. (a)~~ subd. 1. and that depicts the nudity depicted in the representation captured in violation of ~~par. (a)~~ subd. 1., if the person depicted nude in the reproduction did not consent to the making of the reproduction.

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

SECTION 4. 942.09 (3) of the statutes is renumbered 942.09 (2) (bm), and 942.09 (2) (bm) (intro.) and 2., as renumbered, are amended to read:

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

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

SECTION 5. 942.09 (4) of the statutes is renumbered 942.09 (2) (cm) and amended to read:

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

SECTION 6. 942.09 (5) of the statutes is created to read:

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

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.

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

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

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

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

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

a. 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.

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

SECTION 7. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 175.22 of the statutes takes effect on the first day of the 6th month beginning after publication.

(END)

Basford, Sarah

From: Schneider, Marlin
Sent: Monday, December 04, 2006 4:12 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-0665/1 Topic: Locker room photography and privacy policies

Please Jacket LRB 07-0665/1 for the ASSEMBLY.