



1995 ASSEMBLY BILL 873

February 13, 1996 - Introduced by Representatives SERATTI, MUSSER, PLOMBON, GARD, OURADA, PORTER, DOBYNS, GOETSCH, OLSEN, KREIBICH, AINSWORTH and GUNDERSON, cosponsored by Senators PETAK and CLAUSING. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT** *to renumber and amend* 947.01; *to amend* chapter 942 (title); and *to*
2 *create* 942.08 and 947.01 (2) of the statutes; **relating to:** criminal invasion of
3 privacy, disorderly conduct and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill does the following with respect to invasion of privacy and disorderly conduct:

Invasion of privacy

Under current law, with certain exceptions, no person may intentionally intercept a wire, electronic or oral communication; intentionally use an electronic, mechanical or other device to intercept an oral communication; or disclose or use the contents of a wire, electronic or oral communication that the person has reason to know was unlawfully intercepted. A person who violates these prohibitions may be fined not more than \$10,000 or imprisoned for not more than 5 years or both. The exceptions to these prohibitions include the interception of wire, electronic or oral communications by a person acting under a court order authorizing the interception, the interception of certain communications made through a communication system that is readily accessible to the general public, and the interception of a wire or electronic communication by an employe or agent of the wire or electronic communication service used to transmit the communication if the person is engaged in any activity which is necessary to provide the communication service or to protect the rights or property of the communication service.

This bill prohibits a person from knowingly installing or using a device either to eavesdrop on conversations in a private place or to engage in surveillance of activities in a private place without the consent of all persons entitled to privacy in that private place. The bill prohibits the installation or use of such a device either inside or outside the private place. A person who violates the prohibition created in the bill may be fined not more than \$10,000 or imprisoned for not more than 2 years

or both. The prohibition created in the bill does not apply to the lawful interception of a wire, electronic or oral communication.

Disorderly conduct

Under current law, a person is guilty of disorderly conduct if he or she engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. A person who is found guilty of disorderly conduct may be fined not more than \$1,000 or imprisoned for not more than 90 days or both. This bill provides that it is also disorderly conduct to enter a private place without the consent of the owner or occupant of the private place and with the intent to observe the activities of persons in the private place or to listen to conversations of persons in the private place. The bill’s expanded definition of disorderly conduct does not apply to the lawful interception of a wire, electronic or oral communication.

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

1 **SECTION 1.** Chapter 942 (title) of the statutes is amended to read:

2 **CHAPTER 942**
3 **CRIMES AGAINST REPUTATION,**
4 **PRIVACY AND CIVIL LIBERTIES**

5 **SECTION 2.** 942.08 of the statutes is created to read:

6 **942.08 Invasion of privacy. (1)** In this section:

7 (a) “Eavesdrop” means to overhear, intercept, record, amplify or transmit any
8 part of a conversation or communication between persons without the knowledge
9 and consent of all persons engaged in the conversation.

10 (b) “Eavesdropping device” means a device, instrument, apparatus,
11 implement, mechanism or contrivance used, designed to be used or primarily
12 intended to be used to eavesdrop.

13 (c) “Private place” means a place where a person may reasonably expect to be
14 safe from eavesdropping or surveillance. “Private place” does not include a place to
15 which the public has access.

1 (d) "Surveillance" means the observation, photographing or recording of the
2 activities of another person without the knowledge and consent of that person.

3 (e) "Surveillance device" means any device, instrument, apparatus,
4 implement, mechanism or contrivance used, designed to be used or primarily
5 intended to be used to engage in surveillance, including a peep hole or similar method
6 of direct sight observation.

7 **(2)** Whoever knowingly does any of the following is guilty of a Class E felony:

8 (a) Installs an eavesdropping device or surveillance device in a private place
9 without the consent of all persons entitled to privacy in that private place.

10 (b) Uses an eavesdropping device or surveillance device if that device has been
11 installed in a private place without the consent of all persons entitled to privacy in
12 that private place.

13 (c) Installs an eavesdropping device or surveillance device outside a private
14 place without the consent of all persons entitled to privacy in a private place in order
15 to eavesdrop on conversations or communications or engage in surveillance of
16 activities that are occurring in the private place and that would not ordinarily be
17 heard or seen outside the private place.

18 (d) Uses an eavesdropping device or surveillance device that has been installed
19 outside the private place without the consent of all persons entitled to privacy in a
20 private place in order to eavesdrop on conversations or communications or engage
21 in surveillance of activities that are occurring in the private place and that would not
22 ordinarily be heard or seen outside the private place.

23 **(3)** This section does not apply to any act which is permissible under ss. 196.63
24 or 968.27 to 968.37.

1 **SECTION 3.** 947.01 of the statutes is renumbered 947.01 (intro.) and amended
2 to read:

3 **947.01 Disorderly conduct.** (intro.) Whoever, ~~in a public or private place,~~
4 engages ~~does any of the following is guilty of a Class B misdemeanor:~~

5 (1) Engages in violent, abusive, indecent, profane, boisterous, unreasonably
6 loud or otherwise disorderly conduct under circumstances in which the conduct tends
7 to cause or provoke a disturbance ~~is guilty of a Class B misdemeanor.~~

8 **SECTION 4.** 947.01 (2) of the statutes is created to read:

9 947.01 (2) Enters a private place without the consent of the owner or occupant
10 of the private place and with the intent to observe, photograph or record the activities
11 of persons in the private place. This subsection does not apply to any act which is
12 permissible under ss. 196.63 or 968.27 to 968.37.

13 **(END)**