



2009 ASSEMBLY BILL 627

December 18, 2009 - Introduced by Representatives SCHNEIDER and BIES. Referred to Committee on Criminal Justice.

1 **AN ACT to renumber** 910.01 (1) and 910.01 (4); **to renumber and amend** 910.01
2 (2); **to amend** subchapter III (title) of chapter 946 [precedes 946.31]; and **to**
3 **create** 910.01 (1g), 910.025 and 946.33 of the statutes; **relating to:**
4 admissibility of a digitally produced photograph, film, motion picture, audio, or
5 video and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if properly authenticated as being a true representation of the image in the photograph or motion picture, an original of a photograph or motion picture may be admitted into evidence to prove the content of the photograph or motion picture. This bill allows the introduction, in a criminal prosecution, of a digital representation of a photograph, film, motion picture, audio, or video that was created by a law enforcement agent for purposes of proving the content of that digital representation only if that content has not been altered and is in a format that includes bits representing a watermark scattered within the file in such a way that they cannot be identified or manipulated and that shows that the digital representation has not been altered from its original representation. Digital representation, as defined in the bill, means any recording or image of a person, place, document, sound, or event that is created or stored by data in the form of numerical digits.

The bill creates a Class A misdemeanor for altering a digital representation with the intent to falsify its contents or for requesting the admission into evidence

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of a digital representation to prove the contents of that representation if the person knew those contents had been altered.

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.** 910.01 (1) of the statutes is renumbered 910.01 (5m).

2 **SECTION 2.** 910.01 (1g) of the statutes is created to read:

3 910.01 (**1g**) DIGITAL REPRESENTATION. “Digital representation” means any
4 recording or image of a person, place, document, sound, or event that is created or
5 stored by data in the form of numerical digits.

6 **SECTION 3.** 910.01 (2) of the statutes is renumbered 910.01 (4m) and amended
7 to read:

8 910.01 (**4m**) PHOTOGRAPHS. “Photographs” include still photographs, X-ray
9 films, ~~and motion pictures, and digital representations.~~

10 **SECTION 4.** 910.01 (4) of the statutes is renumbered 910.01 (2m).

11 **SECTION 5.** 910.025 of the statutes is created to read:

12 **910.025 Admissibility of a digital representation. (1)** In any criminal
13 prosecution, a digital representation in the form of a photograph, film, motion
14 picture, audio, or video that was produced or created by, or on behalf of, a law
15 enforcement officer or agency is admissible for purposes of proving the content of that
16 digital representation only if all of the following are true:

17 (a) The content of the digital representation has not been altered.

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1 (b) The digital representation is in a format that includes bits representing a
2 watermark that are scattered throughout the file in such a way that they cannot be
3 identified or manipulated.

4 (c) The watermark described in par. (b) shows that the digital representation
5 has not been altered from its original representation.

6 (2) This section does not apply if the alteration of the digital representation is
7 an element of the crime that is being prosecuted.

8 **SECTION 6.** Subchapter III (title) of chapter 946 [precedes 946.31] of the
9 statutes is amended to read:

10 **CHAPTER 946**

11 **SUBCHAPTER III**

12 **PERJURY, DIGITAL ALTERATION,**

13 **AND FALSE SWEARING**

14 **SECTION 7.** 946.33 of the statutes is created to read:

15 **946.33 Alteration of a digital representation.** (1) In this section, “digital
16 representation” means any recording or image of a person, place, document, sound,
17 or event that is created or stored by data in the form of numerical digits.

18 (2) Whoever offers into evidence a digital representation for the purpose of
19 proving the content of that digital representation knowing that the digital
20 representation has been altered from its original representation is guilty of a Class
21 A misdemeanor.

22 (3) Whoever alters a digital representation with the intent to falsify the content
23 of the digital representation for its use in a criminal prosecution is guilty of a Class
24 A misdemeanor.

