

1999 ASSEMBLY BILL 288

April 22, 1999 – Introduced by Representatives SCHNEIDER, RYBA, HASENOHRL, GRONEMUS, HAHN and TURNER, cosponsored by Senator HUELSMAN. Referred to Committee on Judiciary and Personal Privacy.

- 1 **AN ACT to create** 895.50 (2) (d) and 895.50 (2m) of the statutes; **relating to:**
2 expanding the right of privacy.

Analysis by the Legislative Reference Bureau

Under current law, an individual whose privacy is unreasonably invaded is entitled to equitable relief to restrain the invasion, compensatory damages and reasonable attorney fees. An “invasion of privacy” in current law means any of the following:

1. A highly offensive intrusion upon the privacy of another in a place that a reasonable person would consider private or in a manner that is actionable for trespass.

2. The advertising or trade use of the name or picture of a living person without first receiving that person’s permission.

3. The publicity given to the private life of another that is highly offensive if the person that publicized the private life had acted unreasonably or recklessly as to whether there was a legitimate public interest in the matter involved or with actual knowledge that there was no legitimate public interest in the matter publicized.

This bill adds another definition of “invasion of privacy”. Under the bill, it is an invasion of a person’s privacy if publicity is given to a matter concerning that person that places that person in a false light if that false light would be highly offensive to another person.

Under the bill, if the person placed in the false light is a public person, the person who publicized the matter is liable for an invasion of the person’s privacy if

ASSEMBLY BILL 288

the publisher had knowledge of the falsity of the matter or acted with reckless disregard as to the falsity of the matter. If the person placed in the false light is a private person, the person who publicized the matter is liable for an invasion of the person's privacy if the publisher did not use reasonable care. Under the bill, the truth of the publicized matter is a defense to an action for invasion of the person's privacy if the publisher acted with good motives and for justifiable ends.

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

1 **SECTION 1.** 895.50 (2) (d) of the statutes is created to read:

2 895.50 **(2)** (d) Publicity given to a matter concerning another person that places
3 the other person before the public in a false light if the false light in which the other
4 person was placed would be highly offensive to a reasonable person.

5 **SECTION 2.** 895.50 (2m) of the statutes is created to read:

6 895.50 **(2m)** (a) In this subsection:

7 1. "Private person" means a person who is not a public person.

8 2. "Public person" means that the person has general fame or notoriety in the
9 community and pervasive involvement in the affairs of society; the person has put
10 himself or herself in the public eye with respect to the issues or events reported; or
11 the person has deliberately engaged the public's attention to influence the issues or
12 events reported.

13 3. "Publisher" means any person who gives publicity to a matter, including a
14 person who communicates the matter in a newspaper or magazine, on radio or
15 television or by electronic means.

16 (b) If the person who is the subject of the publicity under sub. (2) (d) is a public
17 person, the publisher is liable under this section if the publisher had knowledge of
18 or acted with reckless disregard as to the falsity of the publicized matter.

ASSEMBLY BILL 288

1 (c) If the person who is the subject of the publicity under sub. (2) (d) is a private
2 person, the publisher is liable under this section if the publisher did not use
3 reasonable care.

4 (d) Truth of the publicized matter is an absolute defense to an action for the
5 violation of a person's privacy under sub. (2) (d) if the publisher acted with good
6 motives and for justifiable ends.

7 **SECTION 3. Initial applicability.**

8 (1) This act first applies to publicity given to a matter concerning another
9 person on the effective date of this subsection.

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(END)