

1999 DRAFTING REQUEST

Bill

Received: **12/20/1999**

Received By: **olsenje**

Wanted: Soon

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason**

This file may be shown to any legislator: NO

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies: **MGD**

Pre Topic:

No specific pre topic given

Topic:

Tampering with a surveillance device

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> |
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| /1 | olsenje 1212711999 | jgeller 1212811999 | martykr 12/28/1999 | _____ | lrb-docadmin 12/28/1999 | | |
| /2 | olsenje 01/13/2000 | jgeller 01/13/2000 | martykr 01/14/2000 | _____ | lrb-docadmin 01/14/2000 | lrb-docadmin 0 1/26/2000 | |

FE Sent For:

<END>

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12/13 jlg
Km/13
[Signature]
[Signature]

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| 1/? | olsenje | 1/12/28 JLG | Xmd3/28 | H17 17 2/28 28 | | | |

FE Sent For:

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Toson Rep. Hundertmark

(4786)

- C Missel - ^{intentional} Stungern's surveillance device

- E Abbey - " cap intent
to commit crime
if avoid detection

DATE: DECEMBER 14, 1999

CLIENT: LEGISLATURE

LIBRARY: LEXSEE

CITATION: 879 F. Supp. 1110



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4106/1

JEO: x:...

JLg

Soon D-Note

1999 BILL

gen cat

1 AN ACT **relating to:** tampering with a surveillance device and providing
2 penalties!

Analysis by the Legislative Reference Bureau

Current law provides various penalties for damaging or misappropriating the property of another. This bill prohibits a person from tampering with a surveillance device that is owned by another by disconnecting, altering, dismantling, damaging, covering up, removing or destroying the surveillance device without the consent of the owner and with the intent either to cause the surveillance device to become inoperative or to interfere with or circumvent the operation of the surveillance device.

A person who violates the prohibition created in the bill may be fined not more than \$500 or imprisoned for not more than 30 days or both, except that a person may be fined not more than \$10,000 or imprisoned for not more than five years or both if the person violates the prohibition with the intent to make it less likely that another crime will be detected or that a person who commits another crime will be identified with the crime. The bill also provides that a person charged with violating the prohibition created in the bill has a defense to the charge if he or she tampered with a surveillance device that was installed or used with the intent to observe any nude or partially nude person without the consent of the person observed.

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

BILL

SECTION 1

1 **SECTION 1.** The unnumbered subchapter title preceding 943.01 of the statutes
2 is numbered subchapter I[✓] and amended to read:

3 **CHAPTER 943**

4 SUBCHAPTER I

5 DAMAGE!

6 **SECTION 2.** The unnumbered subchapter title preceding 943.10 of the statutes
7 is numbered subchapter II and amended to read:

8 **CHAPTER 943**

9 SUBCHAPTER II

10 TRESPASS:'

11 **SECTION 3.** The unnumbered subchapter title preceding 943.20 of the statutes
12 is numbered subchapter III and amended to read:

13 **CHAPTER 943**

14 SUBCHAPTER III

15 MISAPPROPRIATIONS[✓]

16 **SECTION 4.** Subchapter IV² ((title)) of chapter 943 [precedes 943.80] of the
17 statutes is created to read:

18 **CHAPTER 943**

19 SUBCHAPTER IV

20 OTHER CRIMES AGAINST PROPERTY

21 ~~SECTION 5. 943.80 of the statutes is amended to read:~~

22 **943.80 Tampering with a surveillance device.**[✓] **(1)** In this section:[✓]

23 (a) "Surveillance device" means any device, instrument,[✓] apparatus,
24 implement, mechanism or contrivance used, designed to be used or primarily
25 intended to be used to observe or hear the activities of a person.

BILL

1 (b) "Tamper with" means disconnect, alter, dismantle, damage, cover up,
2 remove or destroy.

3 (2) No person may tamper with a surveillance device without the consent of the
4 owner of the surveillance device and with the intent either to cause the surveillance
5 device to become inoperative or to interfere with or circumvent the operation of the
6 surveillance device.

7 (3) (a) Except as provided in par. (b),[✓] whoever violates sub. (2)[✓] is guilty of a Class
8 C misdemeanor.

9 (b) A person is guilty of a Class E felony if he or she violates sub.[✓] (2) with the
10 intent to make it less likely that another crime will be detected or that a person who
11 commits another crime will be identified with the crime.

12 (4) It is an affirmative defense to a prosecution under sub. (3) (a)[✓] if the
13 defendant tampered with a surveillance device that was installed in violation of s.
14 942.08 (2)[✓] or is being used in violation of s. 942.08 (2). A defendant who raises this
15 affirmative defense has the burden of proving the defense by a preponderance of the
16 evidence.

17 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4106/1dn

JEO:..:...

Jason:

Please review this draft carefully to make sure that it does what you want it to do.

Note that the draft covers only surveillance devices, as that is defined in proposed s. 943.80 (1) (a). This is because my notes from our telephone conversations referred only to such devices. However, while surveillance devices may have been the focus of our initial discussions, it may be that my notes don't accurately reflect all of your concerns and that you also want to cover other security devices, such as alarms of various kinds. If so, please let me know and I will redraft the proposal to cover any other security devices that you want to include.

In addition proposed s. 943.80 (3) (b) is drafted so that simple tampering without trying to conceal any criminal activity (which is punishable under proposed s. 943.80 (3) (a)) will be an included offense (that is, a person can't be punished under both proposed s. 943.80 (3) (a) and (b)). In addition proposed s. 943.80 (3) (b) is drafted so that a person can be punished both under that paragraph and for the other crime that he or she was trying to conceal (assuming that they actually committed or attempted to commit the other crime). Okay?

Also, note that the draft includes an affirmative defense for tampering with a surveillance device that has been installed or used in violation of s. 942.08 (2), stats. Okay?

Finally, the treatment of the various subchapter titles to ch. 943 is technical and simply conforms the titles to current drafting style. The treatment effects no substantive change.

Please let me know if you have any questions or changes.

Jefren E. Olsen
Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us

10

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4106/1dn
JEO;jlg:km

December 28, 1999

Jason:

Please review this draft carefully to make sure that it does what you want it to do.

Note that the draft covers only surveillance devices, as that is defined in proposed s. 943.80 (1) (a). This is because my notes from our telephone conversations referred only to such devices. However, while surveillance devices may have been the focus of our initial discussions, it may be that my notes don't accurately reflect all of your concerns and that you also want to cover other security devices, such as alarms of various kinds. If so, please let me know and I will redraft the proposal to cover any other security devices that you want to include.

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Jefren E. Olsen
Senior Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4106/1
JEO:jlg:km

By Fri 1/14
D. Nade

2
N.M.R.

1999 BILL

Oegen

1 AN ACT *to renumber and amend* the unnumbered subchapter title preceding
2 943.01, the unnumbered subchapter title preceding 943.10 and the
3 unnumbered subchapter title preceding 943.20; and *to create* subchapter IV
4 of chapter 943 [precedes 943.801 of the statutes; relating to: tampering with
5 security device or
a surveillance device and providing penalties.

✓ Security device or

Analysis by the Legislative Reference Bureau

→ Current law provides various penalties for damaging or misappropriating the
→ property of another. This bill prohibits a person from tampering with a surveillance
→ device that is owned by another by disconnecting, altering, dismantling, damaging,
→ covering up, removing or destroying the surveillance device without the consent of
the owner and with the intent either to cause the surveillance device to become
→ inoperative or to interfere with or circumvent the operation of the surveillance
device.

A person who violates the prohibition created in the bill may be fined not more than \$500 or imprisoned for not more than 30 days or both, except that a person may be fined not more than \$10,000 or imprisoned for not more than five years or both if the person violates the prohibition with the intent to make it less likely that another crime will be detected or that a person who commits another crime will be identified with the crime. The bill also provides that a person charged with violating the prohibition created in the bill has a defense to the charge if he or she tampered

BILL

with a surveillance device that ~~was~~^{is} installed or used with the intent to observe any nude or partially nude person without the consent of the person observed.

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

1 **SECTION 1.** The unnumbered subchapter title preceding 943.01 of the statutes
2 is numbered subchapter I and amended to read:

3 **CHAPTER 943**

4 SUBCHAPTER I

5 DAMAGE,

6 **SECTION 2.** The unnumbered subchapter title preceding 943.10 of the statutes
7 is numbered subchapter II and amended to read:

8 **CHAPTER 943**

9 SUBCHAPTER II

10 TRESPASS

11 **SECTION 3.** The unnumbered subchapter title preceding 943.20 of the statutes
12 is numbered subchapter III and amended to read:

13 **CHAPTER 943**

14 SUBCHAPTER III

15 MISAPPROPRIATION;

16 **SECTION 4.** Subchapter IV of chapter 943 [precedes 943.80] of the statutes is
17 created to read:

18 **CHAPTER 943**

19 SUBCHAPTER IV

20 OTHER CRIMES AGAINST PROPERTY

21 **943.80 Tampering with a surveillance device. (1)** In this section:

BILL

INS
3-1

1 (1) (a) "Surveillance device" means any device, instrument, apparatus,
2 implement, mechanism or contrivance used, designed to be used or primarily
3 intended to be used to observe or hear the activities of a person.

4 (b) (1) "Tamper with" means disconnect, alter, dismantle, damage, cover up,
5 remove or destroy.

6 (2) No person may tamper with a security device or surveillance device without the consent of the
7 owner of the device and with the intent either to cause the ~~surveillance~~
8 device to become inoperative or to interfere with or circumvent the operation of the
9 ~~surveillance~~ device.

10 (3) (a) Except as provided in par. (b), whoever violates sub. (2) is guilty of a Class
11 C misdemeanor.

12 (b) A person is guilty of a Class E felony if he or she violates sub. (2) with the
13 intent to make it less likely that another crime will be detected or that a person who
14 commits another crime will be identified with the crime.

15 (4) It is an affirmative defense to a prosecution under sub. (3) (a) if the
16 defendant tampered with a surveillance device that ~~was~~ ^{is} installed in violation of s.
17 942.08 (2) or is being used in violation of s. 942.08 (2). A defendant who raises this
18 affirmative defense has the burden of proving the defense by a preponderance of the
19 evidence.

20 (END)

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4106/2ins
JEO:.....

1 **INSERT 3-1:**

2 (a) "Security device" means any device, instrument, apparatus, implement,
3 mechanism or contrivance that is used, designed to be used or primarily intended to
4 be used, either by itself or as a component of a system, as a theft alarm, burglar alarm
5 or other security alarm. ✓

LRB-4106/2da
JEO: jlg:

D-Nate

Jason:

Does the definition of "security device"
cover everything you want it to cover?

JEO

DATE: JANUARY 11, 2000
CLIENT: LEGISLATURE
LIBRARY: LEXSEE
CITATION: 1996 WISC. APP. LEXIS 1139

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4106/2dn
JEO:jlg:km

January 13, 2000

Jason:

Does the definition of "security device" cover everything you want it to cover?

Jefren E. Olsen
Senior Legislative Attorney
Phone: (608) 266-8906
E-mail: Jefren.Olsen@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 01/14/2000

To: Representative Hundertmark

Relating to LRB drafting number: LRB-4106

Topic

Tampering with a surveillance device

Subject(s)

Criminal Law - miscellaneous

1. **JACKET** the draft for introduction Rep. Dean Hundertmark

in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Senior Attorney
Telephone: (608) 266-8906