1999 DRAFTING REQUEST

Bill

Received: **08/13/1999**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **David Travis (608) 266-5340**

By/Representing: **Bill**

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Courts - miscellaneous**
Criminal Law - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Theft of and use of information obtained from garbage or trash

---

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1							
/P2	mdsida 12/07/1999	jgeller 12/07/1999	martykr 12/08/1999	_____ _____	lrb-docadmin 12/08/1999		
/1	mdsida 01/26/2000	csicilia 01/26/2000	martykr 01/27/2000	_____ _____	lrb-docadmin 01/27/2000	lrb-docadmin 01/27/2000	

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **08/13/1999**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **David Travis (608) 266-5340**

By/Representing: **Bill**

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Courts - miscellaneous**
Criminal Law - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Theft of and use of information obtained from garbage or trash

---

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1							
/P2	mdsida 12/07/1999	jgeller 12/07/1999	martykr 12/08/1999	_____ _____	lrb_docadmin 12/08/1999	for Assembly	

FE Sent For:

<END;

1999 DRAFTING REQUEST

Bill

Received: **08/13/1999**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **David Travis (608) 266-5340**

By/Representing: **Bill**

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Courts - miscellaneous**
Criminal Law - miscellaneous

Extra Copies: JEO
RPN

Pre Topic:

No specific pre topic given

Topic:

Theft of and use of information obtained from garbage or trash

---

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Reauired
/?	mdsida		8/16 LC conversion km 12/8	12 km 8			

FE Sent For:

<END>

DAVE TRAVIS
STATE REPRESENTATIVE

STATE CAPITOL
P.O. BOX 8953
MADISON, WI 53708
(608) 266-5340

8/9/99

Jefren,

Please draft the attached. Mark Petronsky's memo is attached FYI. You may feel free to consult with him as necessary.

Thanks,

Bill Graf

AN ACT *to create* 895.50 (2) (d), 943.20 (3) (e), 943.202 and 968.132 of the statutes; relating to: creating a right and an expectation of privacy in information obtained from garbage or trash, prohibiting the theft of garbage or trash and prohibiting the acquisition and use of personal information from garbage or trash, and providing a penalty.

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

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

895.50 (2) (d) The acquisition, maintenance or use of personal information, as defined in s. 943.202 (1), which is derived from garbage or trash, if the garbage or trash is placed in an opaque bag or an opaque container with a lid and if the garbage or trash is set out for collection ot disposed in a routine manner for the collection and disposal of garbage ot trash, including leaving the garbage or trash at a transfer station or disposing of the garbage or trash directly at a landfill.

SECTION 2. 943.20 (3) (e) of the statutes is created to read:

943.20 (3) (e) If the property consists of garbage or trash which is placed in an opaque bag or an opaque container with a lid and which is set out for collection or disposed in a routine manner for the collection and disposal of garbage or trash, including leaving the garbage or trash at a transfer station or disposing of the garbage or trash directly at a landfill, is subject to a Class B forfeiture.

SECTION 3. 943.202 of the statutes is created to read:

943.202 Personal information from garbage or trash. (1) In this section, "personal information" means any of the following:

(a) Information about an individual, including information about an individual's family, friends and associates, beliefs, appearance, employment, activities, memberships, political affiliations, physical or mental condition, diet, medications, habits, possessions, finances and purchases.

(b) Personally identifiable data about an individual that is not generally considered to be public knowledge, including. account numbers and account balances, Social Security number and other identifying numbers, insurance coverage and taxes.

(2) Whoever intentionally acquires, maintains or uses, including use by sale, distribution, publication, exchange or retention, any personal information about another individual obtained from garbage or trash under the following circumstances is guilty of a Class B misdemeanor:

(a) Without the authorization or consent of the individual.

(b) The trash or garbage is placed in an opaque bag or an opaque container with a lid.

(c) The trash or garbage is set out for collection or disposed in a routine manner for the collection and disposal of garbage or trash, including leaving the garbage or trash at a transfer station or disposing of the garbage or trash directly at a landfill.

SECTION 4. 968.132 of the statutes is created to read:

968.132 Privacy for garbage or trash. For purposes of the fourth amendment to the U.S. Constitution and article 1, section 11 of the constitution, an individual has an expectation of privacy for any garbage or trash which **is** placed in an opaque bag or an opaque container -with a lid and which is set out for collection or disposed in a routine manner for the collection

and disposal of garbage or trash, including leaving the garbage or trash at a transfer station or disposing of the garbage or trash directly at a landfill.

(END)

WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-l 304
Fax: (608) 266-3830
Email: leg.council@legis.state.wi.us

DATE: August 6, 1999

TO: REPRESENTATIVE DAVID TRAVIS

FROM: Mark C. Patronsky, Senior Staff Attorney

SUBJECT: Bill Draft Relating to the Privacy of Garbage or Trash

This memorandum is in response to your request for a bill draft that would protect personal information that may be obtained from garbage or trash. The attached bill draft, WLCS: 0189/1, is intended to accomplish this purpose. This memorandum contains a brief description of the provisions of WLCS: 0189/1.

As you review the attached bill draft and consider your objectives regarding legislation on this subject, you should note that there may be other reasonable options for legislation regarding the privacy of information derived from garbage or trash. I will be pleased to redraft WLCS: 0189/1 as necessary.

Throughout WLCS: 0189/1, all references to garbage or trash require that, to obtain the protection provided by the bill draft, the garbage or trash must be placed in an opaque bag or opaque container with a lid and the garbage or trash must be set out for collection or disposed in a routine manner for the collection and disposal of garbage or trash. The requirement for an opaque bag or container requires the individual to take an affirmative step to protect the privacy of his or her garbage or trash. The bill draft does not provide protection for garbage or trash placed in transparent recycling bags, in translucent bags or in containers without a lid.

The protections of personal information in WLCS: 0189/1 (SECTIONS 1, 3 and 4 of the draft) apply to any garbage or trash that meets the conditions regarding placement in an opaque container for routine disposal. In other words, the personal information is protected even though the garbage or trash may be disposed by another person or a business or governmental unit.

SECTION 1 of WLCS: 0189/1 creates a new element of the definition of "invasion of privacy" in the current statute regarding the right of privacy. The effect of this definition is to provide that the acquisition, maintenance or use of personal information from garbage or trash

constitutes an invasion of privacy. Under s. 895.50, Stats., a person whose privacy is unreasonably invaded is entitled to an injunction to prevent and restrain the invasion, compensatory damages and reasonable attorney fees.

SECTION 2 adds a provision to the current criminal statute regarding theft. The current statute imposes a criminal penalty on anyone who "intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of such property." [s. 943.20 (1) (a), Stats.] SECTION 2 establishes that garbage or trash is movable property for purposes of the statute. The penalty for a Class B forfeiture, as provided in the draft, is a civil forfeiture not to exceed $1,000.

SECTION 3 creates a new criminal statute prohibiting the acquisition, maintenance or use of personal information, as defined in the bill draft, derived from garbage or trash. This statute is placed in sequence after the "identity theft" statute that prohibits the use of personal identifying information or personal identification documents to obtain credit, money, goods or services. The prohibition in SECTION 3 is substantially broader than the identity theft statute as it does not require that the information be used for financial gain. The penalty for a Class B misdemeanor, as provided in the draft, is a fine not to exceed $1,000 or imprisonment not to exceed 90 days, or both.

SECTION 4 creates a new section in the chapter of statutes related to the commencement of criminal proceedings. The draft declares that an individual has an expectation of privacy with respect to garbage or trash. The effect of the draft is to require police to follow the normal procedures for searches or seizures when attempting to obtain information from trash or garbage. The procedures allow searches or seizures incident to a lawful arrest, with consent, pursuant to a valid search warrant or by other means described in s. 968.10, Stats.

If I can provide further information on this subject, or assist in the redrafting of WLCS: 0189/1, please feel free to contact me.

MCP:tlu:rv;wu

Attachment

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** ...; **relating to:** creating a right and [redacted] of privacy in
2 personal information contained in obtained from garbage or trash, prohibiting the theft of garbage or
3 trash and prohibiting [redacted] quisition and use of personal information from
4 garbage or trash and providing a penalty.

Anal. insert →

Analysis by the Legislative Reference Bureau

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

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

6 895.50 **(2)** (d) The unauthorized possession acquisition, maintenance or use of personal information, as
7 defined in s. 943.202 (1), that was derived which is derived from garbage or trash, if the garbage or
8 trash was is placed in an opaque bag or in an opaque container with a lid and if the garbage
9 or trash is set out for collection or was disposed of in a routine manner used for the collection and
10 disposal of garbage or trash, including setting it out for collection leaving the garbage or trash at a transfer
11 station or disposing of the garbage or trash directly at a landfill.

INSERT 1/7

about another

about another

selling the it garbage or trash out for collection.

← INsert 2/0

SECTION 2. 943.20 (3) (e) of the statutes is created to read:

943.20 (3) (e) If the property consists of garbage or trash which is placed in an opaque bag or an opaque container with a lid and which is set out for collection or is disposed in a routine manner for the collection and disposal of garbage or trash, including leaving the garbage or trash at a transfer station or disposing of the garbage or trash directly at a landfill, is subject to a Class B forfeiture.

SECTION 3. 943.202 of the statutes is created to read:

943.202 Personal information from garbage or trash. (1) In this section, "personal information" means any of the following:

(a) Information about an individual, including information about an individual's family, friends and associates, beliefs, appearance, employment, activities, memberships, political affiliations, physical or mental condition, diet, medications, habits, possessions, finances and purchases.

(b) Personally identifiable data about an individual that is not generally considered to be public knowledge, including account numbers and account balances, Social security number and other identifying numbers, insurance coverage and taxes.

(2) Whoever intentionally acquires, maintains or uses, including use by sale, distribution, publication, exchange or retention, any personal information about another individual obtained from garbage or trash under the following circumstances is guilty of a Class B misdemeanor:

(a) Without the authorization or consent of the individual.

(b) The trash or garbage is placed in an opaque bag or an opaque container with a lid.

indv, knowing that the info was
derived from g or t w/o consent,
is guilty of class

1 (b) ~~(a) The trash or garbage is set out for collection or disposed in a routine manner~~
2 ~~for the collection and disposal of garbage or trash, including leaving the garbage or trash~~
3 ~~at a transfer station or disposing of the garbage or trash directly at a landfill.~~

Insert 3/3

4 **SECTION** 4. 968.132 of the statutes is created to read:

5 **968.132 Privacy for garbage or trash.** For purposes of ~~the fourth~~
6 ~~amendment to the U.S. Constitution and~~ article I, section 11, of the Wisconsin constitution, an
7 individual has ~~an~~ a reasonable expectation of privacy ~~for any garbage or~~ in trash ~~which~~ is placed in
8 an opaque bag or an opaque container with a lid and ~~which~~ is ~~set out for collection~~
9 ~~or~~ disposed of in a routine manner used for the collection and disposal of garbage or trash,
10 including ~~leaving the garbage or trash~~ it at a transfer station or disposing of ~~the~~ it
11 ~~garbage or trash directly at a landfill.~~ , as defined in s. 943.20 (1d) (a).

Insert 3/11

12 **(END)**

WPOs: INserts are on 2 separate documents

1 **ANALYSIS INSERT**

Under current law, one whose privacy is unreasonably invaded may obtain an injunction to prevent the invasion of privacy, compensatory damages and reasonable attorney fees. An invasion of privacy is defined to mean certain highly offensive intrusions upon the privacy of another, the unauthorized use of the name, portrait or picture of a living person for certain commercial purposes and certain highly offensive publicity given to a private matter of another. This bill makes it an invasion of privacy to possess personal information about another if it is derived from garbage or trash placed in an opaque bag or a covered opaque container for pickup or derived from garbage or trash that is otherwise properly disposed of (sealed trash).

The bill also creates a new crime involving the theft of sealed trash and the use of personal information derived from sealed trash. Under current law, a person commits the offense of theft by, among other things, intentionally taking and carrying away movable property of another without the other's consent and with intent to deprive the other of possession of the property. A person convicted of theft may be imprisoned from up to 9 months to up to 15 years (depending on the value of the property) or fined up to $10,000 or both. Current law also prohibits the intentional misappropriation of personal identifying information. A person who violates this prohibition may be imprisoned for up to 10 years or fined up to $10,000 or both.

Under the bill, a person may not intentionally take and carry away, use, transfer, conceal or retain possession of another person's sealed trash without the other person's consent with intent to deprive the person permanently of possession or control of such trash or after possession or control of the trash has been conveyed to a third person. A person who violates this prohibition is subject to a forfeiture of up to $1,000. In addition, under the bill, a person may not acquire or use personal information about an individual that was obtained from sealed trash if the person knows that the personal information was extracted from the trash without the individual's consent. A person who violates this prohibition may be imprisoned for up to 90 days or fined up to $1,000 or both.

Finally, under Wisconsin caselaw, a person does not have a reasonable expectation of privacy in garbage or trash if the garbage or trash is left for collection in a place that is not adjacent to the home. As a result, such garbage or trash may be searched or seized by government officials without a warrant. This bill establishes an individual's expectation of privacy in sealed trash as reasonable under the Wisconsin constitution, thereby subjecting searches or seizures of the sealed trash to the warrant requirements of article I, section 11 of the Wisconsin constitution.

2 INSERT **2/0**

3 **SECTION** 1. 939.22 (21) (p) of the statutes is amended to read:

939.22 (21) (p) Theft, as prohibited in s. 943.20 (1).

History: 1971 c. 219; 1973 c. 336; 1977 c. 173; 1979 c. 89,221; 1981 c. 79 s. 17; 1981 c. 89,348; 1983 a 17,459; 1985 a. 146 s. 8; 1987 a 332,399; 1993 a. 98, 213, 227, 441,486: 1995 a. 69, 436, 448; 1997 a. 143,295.

SECTION 2. 941.38 (1) (b) 16. of the statutes is amended to read:

941.38 (1) (b) 16. Theft, as prohibited in s. 943.20 (1).

History: 1993 a. 98,227; 1995 a. 448; 1997 a. 143.295.

SECTION 3. 943.20 (1) (intro.) of the statutes is amended to read:

943.20 (1) **ACTS IN GENERAL.** (intro.) ~~Whoever~~ Except as provided in sub. (Id), whoever does any of the following may be penalized as provided in sub. (3):

History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a 213, 445, 486.

SECTION 4. 943.20 (Id) of the statutes is created to read:

943.20 **(Id) ACTS RELATED TO TRASH.** (a) In this subsection, "trash" means anything ~~that~~ placed in an opaque bag or an opaque container with a lid, if the bag or the contents of the container ~~are~~ have been disposed of in a manner routinely used for the collection and disposal of garbage, including setting the bag or container out for collection, leaving the bag or the contents of the container at a transfer station or disposing of the bag or the contents of the container directly at a landfill.

(b) Whoever intentionally takes and carries away, uses, transfers, conceals or retains possession of another person's trash without the other person's consent and with intent to deprive the person permanently of possession or control of such trash or after possession or control of the trash has been conveyed to a third person for its disposal, may be penalized as provided in sub. (3d).

SECTION 5. 943.20 (3) (title) of the statutes is amended to read:

943.20 **(3)** (title) **PENALTIES IN GENERAL.**

History: 1977 c. 173, 255, 447; 1983 a. 189; 1987 a. 266; 1991 a. 39; 1993 a 213, 445, 486.

SECTION 6. 943.20 (3d) of the statutes is created to read:

943.20 **(3d) PENALTY RELATING TO THEFT OF TRASH.** Whoever violates sub. (Id) is subject to a Class B forfeiture.

C

1 **INSERT 3/3**

2 **SECTION** 7. 949.03 (1) (b) of the statutes is amended to read:

3 949.03 **(1)** (b) The commission or the attempt to commit any crime specified in

4 s. 346.62 **(4)**, 346.63 (2) or **(6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08,**

5 **940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24,**

6 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03,

7 **943.04, 943.10, 943.20 (1)**, 943.23 (lg), **(1m)** or (lr), **943.32, 948.02, 948.025, 948.03,**

8 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

History: 1975 c. 224 s. 145za; 1975 c. 344; 1977 c. 173,239; 1979 c. 118; 1983 a 199, 356, 538; 1985 a 275; 1985 a. 293 s. 3; 1985 a. 306 s. 5; 1987 a. 90, 332, 3 80, 399, 403; 1989 a. 1 0 5 , 1 4 0 . ~ 1 9; 1995 a. 153, 374, 456; 1997 a 35, 143, 258

INsert 3/11

9 **SECTION 8. Effective date.**

10 (1) **This** act takes effect on December 31, 1999, **or** on the day **after** publication,

11 whichever is later.

G

if

, as defined in s. 943.20(1d) (a)

INSERT 1/7

1. The personal information was derived from garbage or trash.

2. The garbage or trash was placed in an opaque bag or an opaque container with a lid.

3. The garbage or trash was disposed of in a manner routinely used for the collection and disposal of garbage or trash, including setting it out for collection, leaving it at a transfer station or disposing of it directly at a landfill.

DRAFTERS NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3443/1dn
MGD:...:...

December 1, 1999

Bill:

1. Please note that under *California v. Greenwood,* 486 U.S. 1, 43–44 (1988), a state's determination of what expectations of privacy are reasonable have little or no bearing on a court's determination of what expectations are reasonable under the Fourth Amendment to the United States constitution. Therefore, the draft does not and cannot affect courts' application of the Fourth Amendment to searches and seizures of garbage or trash.

2. Do you want to include a requirement that the trash bag be sealed or closed?

3. Under the bill, prosecutors will have discretion to proceed under s. 943.201 (2) if someone uses personal information derived from trash, provided the other requirements of that subsection (that the person obtain something ofvalue without the other's consent and by representing that he or she is the subject of the personal information or is acting with that person's consent) are met. Given the higher penalty in s. 943.201 (2), I assume that this is okay.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–3443/P2dn
MGD:cjs:km

December 8, 1999

Bill:

1. Please note that under *California v. Greenwood*, 486 U.S. 1, 43–44 (1988), a state's determination of what expectations of privacy are reasonable have little or no bearing on a court's determination of what expectations are reasonable under the Fourth Amendment to the United States constitution. Therefore, the draft does not and cannot affect courts' application of the Fourth Amendment to searches and seizures of garbage or trash.

2. Do you want to include a requirement that the trash bag be sealed or closed?

3. Under the bill, prosecutors will have discretion to proceed under s. 943.201 (2) if someone uses personal information derived from trash, provided the other requirements of that subsection (that the person obtain something of value without the other's consent and by representing that he or she is the subject of the personal information or is acting with that person's consent) are met. Given the higher penalty in s. 943.201 (2), I assume that this is okay.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

State of Wisconsin
1999 – 2000 LEGISLATURE

LRB–3443/P2
MGD:cjs:km

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

RMR

AN ACT ***to amend*** 939.22 (21) (p), 941.38 (1) (b) 16., 943.20 (1) (intro.), 943.20 (3) (title) and 949.03 (1) (b); and ***to create 895.50 (2)*** (d), 943.20 (Id), 943.20 (3d), 943.202 and 968.132 of the statutes; **relating to:** personal information contained in garbage or trash, the theft of garbage or trash and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law provides certain remedies for a person whose privacy is unreasonably invaded. An invasion of privacy is defined to mean certain highly offensive intrusions upon the privacy of another, the unauthorized use of the name, portrait or picture of a living person for certain commercial purposes and certain kinds of highly offensive publicity given to a private matter of another. This bill defines an invasion of privacy to include the unauthorized possession of personal information about another if it is derived from sealed trash (i.e., garbage or trash placed in an opaque bag or a covered opaque container and properly disposed of).

The bill also creates new crimes involving the theft of sealed trash and the possession of personal information derived from sealed trash. Under current law, a person commits the offense of theft by, among other things, intentionally taking and carrying away movable property of another without the other's consent and with intent to deprive the other of possession of the property. A person convicted of theft may be imprisoned from up to 9 months to up to 15 years (depending on the value of the property) or fined up to $10,000 or both. Current law also prohibits the

nine

intentional misappropriation of personal identifying information. A person who violates this prohibition may be imprisoned for up to ~~10~~ ten years or fined up to $10,000 or both.

Under the bill, a person may not intentionally take and carry away, use, transfer, conceal or retain possession of anything in another person's sealed trash without the other person's consent with intent to deprive the person permanently of possession or control of such trash or after possession or control of the trash has been conveyed to a third person for its disposal. A person who violates this prohibition is subject to a forfeiture of up to $1,000. In addition, under the bill, a person may not possess personal information about an individual that was derived from sealed trash if the person knows that the personal information was derived from the sealed trash without the individual's consent. A person who violates this prohibition may be imprisoned for up to 90 days or fined up to $1,000 or both.

Finally, under Wisconsin case law, a person does not have a reasonable expectation of privacy in garbage or trash if the garbage or trash is left for collection in a place that is not adjacent to the home. As a result, such garbage or trash may be searched or seized by government officials without a warrant. This bill establishes an individual's expectation of privacy in sealed trash as reasonable under the Wisconsin constitution, thereby subjecting searches or seizures of the sealed trash to the warrant requirements of article I, section 11 of the Wisconsin constitution.

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

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

895.50 (2) (d) The unauthorized possession of personal information, as defined in s. 943.202 (l), about another if the personal information was derived from trash, as defined in s. 943.20 (1d) (a).

SECTION 2. 939.22 (21) (p) of the statutes is amended to read:

939.22 (21) (p) Theft, as prohibited in s. 943.20 (1).

SECTION 3. 941.38 (1) (b) 16. of the statutes is amended to read:

941.38 **(1)** (b) 16. Theft, as prohibited in s. 943.20 (1).

SECTION 4. 943.20 (1) (intro.) of the statutes is amended to read:

943.20 **(1)** ACTS IN GENERAL. (intro.) ~~Whoever~~ Except as provided in sub. (1d), whoever does any of the following may be penalized as provided in sub. (3):

SECTION 5. 943.20 (Id) of the statutes is created to read:

943.20 (1d) ACTS RELATED TO TRASH. (a) In this subsection, "trash" means anything placed in an opaque bag or an opaque container with a lid, if the bag or the contents of the container have been disposed of in a manner routinely used for the collection and disposal of garbage, including setting the bag or container out for collection, leaving the bag or the contents of the container at a transfer station or disposing of the bag or the contents of the container directly at a landfill.

(b) Whoever intentionally takes and carries away, uses, transfers, conceals or retains possession of another person's trash without the other person's consent and with intent to deprive the person permanently of possession or control of such trash or after possession or control of the trash has been conveyed to a third person for its disposal may be penalized as provided in sub. (3d).

SECTION 6. 943.20 (3) (title) of the statutes is amended to read:

943.20 (3) (title) PENALTIES IN GENERAL.

SECTION 7. 943.20 (3d) of the statutes is created to read:

943.20 (3d) PENALTY RELATING TO THEFT OF TRASH. Whoever violates sub. (Id) is subject to a Class B forfeiture.

SECTION 8. 943.2% of the statutes is created to read:

943.202 Personal information derived from garbage or trash. (1) In this section, "personal information" means any of the following:

(a) Information about an individual, including information about an individual's family, friends and associates, beliefs, appearance, employment, activities, memberships, political affiliations, physical or mental condition, diet, medications, habits, possessions, finances and purchases.

(b) Personal identifying data about an individual that is not generally considered to be public knowledge, including account numbers and account balances, social security number and other identifying numbers, insurance coverage and tax information.

(2) Whoever intentionally possesses any personal information about another individual, knowing that it was derived from trash, as defined in s. 943.20 (Id) (a), without the consent of the individual, is guilty of a Class B misdemeanor:

SECTION 9. 949.03 (1) (b) of the statutes is amended to read:

949.03 (1) (b) The commission or the attempt to commit any crime specified in s. 346.62 (4), 346.63 (2) or (6), 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.09, 940.10, 940.19, 940.20, 940.201, 940.21, 940.22 (2), 940.225, 940.23, 940.24, 940.25, 940.285, 940.29, 940.30, 940.305, 940.31, 940.32, 941.327, 943.02, 943.03, 943.04, 943.10, 943.20 (1), 943.23 (lg), (1m) or (lr), 943.32, 948.02, 948.025, 948.03, 948.04, 948.07, 948.095, 948.20, 948.30 or 948.51.

SECTION 10. 968.132 of the statutes is created to read:

968.132 Privacy for garbage or trash. For purposes of article I, section 11, of the Wisconsin Constitution, an individual has a reasonable expectation of privacy in trash as defined in s. 943.20 (1d) (a).

SECTION 11. Effective date.

(1) This act takes effect on December 31, 1999, or on the day after publication, whichever is later.

(END)