

## 2001 ASSEMBLY BILL 714

January 14, 2002 – Introduced by Representatives MEYERHOFER, McCORMICK, LADWIG, GRONEMUS, JESKEWITZ, PETTIS, HINES, LASSA, RYBA and ALBERS, cosponsored by Senators ROESSLER, BURKE, A. LASEE and DARLING. Referred to Committee on Judiciary.

1     **AN ACT** *to renumber and amend* 301.45 (1d) (b), 938.355 (4m), 942.08 (2) and  
2           973.015 (1); *to amend* 301.45 (1m) (title), 942.08 (1) (b) and 973.015 (2); and  
3           **to create** 301.45 (1d) (b) 3., 301.45 (1p), 301.45 (7) (e), 938.355 (4m) (b), 942.08  
4           (2) (b), 942.08 (2) (c) and 973.015 (1) (b) of the statutes; **relating to:** invasion  
5           of privacy and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, no person may knowingly install a surveillance device in any private place or use a surveillance device that has been installed in a private place with the intent to observe any nude or partially nude person without the consent of the person observed. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

This bill prohibits a person from doing any of the following: 1) looking into a private place in which a person may reasonably be expected to be nude or partially nude, if the person looking does so for the purpose of sexual arousal or gratification and without the consent of any person who is present in the private place; or 2) looking into the dwelling of another for the purpose of sexual arousal or gratification, with the intent to intrude upon or interfere with the privacy of another, and without the consent of any person who is present in the dwelling. A person who violates either of these “peeping tom” prohibitions may be fined not more than \$10,000 or imprisoned for not more than nine months or both. The bill also requires anyone who violates one of the peeping tom prohibitions or who violates the existing prohibition

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regarding installing or using a surveillance device to register with the department of corrections (DOC) as a sex offender.

This bill also contains provisions relating to expunging a delinquency adjudication or a conviction based on a violation of one of the peeping tom prohibitions. Under current law, a juvenile who has been adjudged delinquent for any offense may, after attaining 17 years of age, petition the court to expunge the record of the adjudication. The court may expunge the record if it determines that the juvenile has satisfactorily complied with the conditions of the dispositional order and that the juvenile will benefit and society will not be harmed by the expungement. Current law also provides that, if a person was under the age of 21 at the time of committing an offense for which he or she has been found guilty and the maximum penalty for the offense is imprisonment for one year or less in the county jail, the court may, if it determines the person will benefit and society will not be harmed by this disposition, order at the time of sentencing that the record be expunged upon successful completion of the sentence. This bill requires the court to expunge a juvenile's delinquency adjudication if the peeping tom violation was the juvenile's first offense and if he or she complied with the dispositional order. Similarly, the bill requires the court to order that the record of a person's peeping tom conviction be expunged upon successful completion of the sentence if the person was under 18 years old at the time of the offense and he or she had no prior peeping tom convictions. Finally, if a person's delinquency adjudication or conviction record is expunged in this manner, the person is no longer required to register as a sex offender and DOC must expunge the record of the person's delinquency adjudication or conviction from the sex offender registry, unless the person is required to register as a sex offender based on the commission of another sex offense.

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.** 301.45 (1d) (b) of the statutes is renumbered 301.45 (1d) (b) (intro.)

2 and amended to read:

3           301.45 **(1d)** (b) (intro.) “Sex offense” means ~~a~~ any of the following:

4           1. A violation, or the solicitation, conspiracy or attempt to commit a violation,

5 of s. 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05,

6 948.055, 948.06, 948.07, 948.08, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13 or

7 948.30, ~~or,~~

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1           2. A violation, or the solicitation, conspiracy, or attempt to commit a violation,  
2 of s. 940.30 or 940.31 if the victim was a minor and the person who committed the  
3 violation was not the victim's parent.

4           **SECTION 2.** 301.45 (1d) (b) 3. of the statutes is created to read:

5           301.45 **(1d)** (b) 3. A violation, or the solicitation, conspiracy, or attempt to  
6 commit a violation, of s. 942.08 (2) occurring on or after the effective date of this  
7 subdivision .... [revisor inserts date].

8           **SECTION 3.** 301.45 (1m) (title) of the statutes is amended to read:

9           301.45 **(1m)** (title) ~~EXCEPTION TO REGISTRATION REQUIREMENT; UNDERAGE SEXUAL~~  
10 ACTIVITY.

11           **SECTION 4.** 301.45 (1p) of the statutes is created to read:

12           301.45 **(1p)** ~~EXCEPTION TO REGISTRATION REQUIREMENT; EXPUNGEMENT OF INVASION~~  
13 ~~OF PRIVACY CONVICTION.~~ A person who is covered under sub. (1g) based solely on a  
14 delinquency adjudication or conviction for a violation of s. 942.08 (2) (b) or (c) is not  
15 required to comply with the reporting requirements under this section if the  
16 delinquency adjudication is expunged under s. 938.355 (4m) (b) or if the conviction  
17 is expunged under s. 973.015 (2).

18           **SECTION 5.** 301.45 (7) (e) of the statutes is created to read:

19           301.45 **(7)** (e) The department shall purge all of the information maintained  
20 in the registry under sub. (2) concerning a person to whom sub. (1p) applies if any  
21 of the following occurs:

22           1. The department receives notice under s. 938.355 (4m) (b) that a court has  
23 expunged the record of the person's delinquency adjudication for the violation  
24 described in sub. (1p).

25           2. The department issues a certificate of discharge under s. 973.015 (2).

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1           3. The department receives a certificate of discharge issued under s. 973.015  
2 (2) by the detaining authority.

3           **SECTION 6.** 938.355 (4m) of the statutes is renumbered 938.355 (4m) (a) and  
4 amended to read:

5           938.355 **(4m)** (a) A juvenile who has been adjudged delinquent may, on  
6 attaining 17 years of age, petition the court to expunge the court's record of the  
7 juvenile's adjudication. The Subject to par. (b), the court may expunge the court's  
8 record of the juvenile's adjudication if the court determines that the juvenile has  
9 satisfactorily complied with the conditions of his or her dispositional order and that  
10 the juvenile will benefit and society will not be harmed by the expungement.

11           **SECTION 7.** 938.355 (4m) (b) of the statutes is created to read:

12           938.355 **(4m)** (b) The court shall expunge the court's record of a juvenile's  
13 adjudication if it was the juvenile's first adjudication based on a violation of s. 942.08  
14 (2) (b) or (c) and if the court determines that the juvenile has satisfactorily complied  
15 with the conditions of his or her dispositional order. Notwithstanding s. 938.396 (2)  
16 (a), the court shall notify the department promptly of any expungement under this  
17 paragraph.

18           **SECTION 8.** 942.08 (1) (b) of the statutes is amended to read:

19           942.08 **(1)** (b) "Private place" means a place where a person may reasonably  
20 expect to be safe from surveillance being observed without his or her knowledge and  
21 consent.

22           **SECTION 9.** 942.08 (2) of the statutes is renumbered 942.08 (2) (intro.) and  
23 amended to read:

24           942.08 **(2)** (intro.) Whoever knowingly does any of the following is guilty of a  
25 Class A misdemeanor:

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1           (a) Knowingly installs a surveillance device in any private place, or uses a  
2 surveillance device that has been installed in a private place, with the intent to  
3 observe any nude or partially nude person without the consent of the person observed  
4 ~~is guilty of a Class A misdemeanor.~~

5           **SECTION 10.** 942.08 (2) (b) of the statutes is created to read:

6           942.08 **(2)** (b) For the purpose of sexual arousal or gratification and without the  
7 consent of any person who is present in the private place, looks into a private place  
8 that is or is part of a public accommodation, as defined in s. 134.48 (1) (b), and in  
9 which a person may reasonably be expected to be nude or partially nude.

10          **SECTION 11.** 942.08 (2) (c) of the statutes is created to read:

11          942.08 **(2)** (c) Enters private property without the consent of any person  
12 present on the property and, for the purpose of sexual arousal or gratification, with  
13 the intent to intrude upon or interfere with the privacy of another, and without the  
14 consent of any person who is present in the dwelling, looks into the dwelling of  
15 another.

16          **SECTION 12.** 973.015 (1) of the statutes is renumbered 973.015 (1) (a) and  
17 amended to read:

18          973.015 **(1)** (a) ~~When~~ Subject to par. (b), when a person is under the age of 21  
19 at the time of the commission of an offense for which the person has been found guilty  
20 in a court for violation of a law for which the maximum penalty is imprisonment for  
21 one year or less in the county jail, the court may order at the time of sentencing that  
22 the record be expunged upon successful completion of the sentence if the court  
23 determines the person will benefit and society will not be harmed by this disposition.

24          **SECTION 13.** 973.015 (1) (b) of the statutes is created to read:

