

2007 Assembly Bill 8

Date of enactment: **March 20, 2008**

Date of publication*: **April 3, 2008**

2007 WISCONSIN ACT 118

AN ACT *to renumber and amend* 942.09 (2), 942.09 (3) and 942.09 (4); and *to create* 175.22, 942.09 (1) (am) and 942.09 (5) of the statutes; **relating to:** capturing an image of a nude or partially nude person in a locker room, written policies on privacy in locker rooms, and providing a penalty.

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

SECTION 1. 175.22 of the statutes is created to read:

175.22 Policy on privacy in locker rooms. (1) In this section:

(a) "Person" includes the state.

(b) "Recording device" means a camera, a video recorder, or any other device that may be used to record or transfer images.

(2) Any person that owns or operates a locker room in this state shall adopt a written policy that does all of the following:

(a) Specifies who may enter and remain in the locker room to interview or seek information from any individual in the locker room.

(b) Specifies the recording devices that may be used in the locker room and the circumstances under which they may be used.

(c) Reflects the privacy interests of individuals who use the locker room.

(d) Specifies that no person may use a cell phone to capture, record, or transfer a representation of a nude or partially nude person in the locker room.

SECTION 2. 942.09 (1) (am) of the statutes is created to read:

942.09 (1) (am) "Nude or partially nude person" has the meaning given in s. 942.08 (1) (a).

SECTION 3. 942.09 (2) of the statutes is renumbered 942.09 (2) (am), and 942.09 (2) (am) 2. and 3., as renumbered, are amended to read:

942.09 (2) (am) 2. Makes a reproduction of a representation that the person knows or has reason to know was captured in violation of ~~par. (a) subd. 1.~~ and that depicts the nudity depicted in the representation captured in violation of ~~par. (a) subd. 1.~~, if the person depicted nude in the reproduction did not consent to the making of the reproduction.

3. Possesses, distributes, or exhibits a representation that was captured in violation of ~~par. (a) subd. 1.~~ or a reproduction made in violation of ~~par. (b) subd. 2.~~, if the person knows or has reason to know that the representation was captured in violation of ~~par. (a) subd. 1.~~ or the reproduction was made in violation of ~~par. (b) subd. 2.~~, and if the person who is depicted nude in the representation or reproduction did not consent to the possession, distribution, or exhibition.

SECTION 4. 942.09 (3) of the statutes is renumbered 942.09 (2) (bm), and 942.09 (2) (bm) (intro.) and 2., as renumbered, are amended to read:

* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

942.09 (2) (bm) (intro.) Notwithstanding ~~sub. (2) (a), (b), and (c) par. (am)~~, if the person depicted nude in a representation or reproduction is a child and the capture, possession, exhibition, or distribution of the representation, or making, possession, exhibition, or distribution of the reproduction, does not violate s. 948.05 or 948.12, a parent, guardian, or legal custodian of the child may do any of the following:

2. Distribute or exhibit a representation captured or possessed under ~~par. (a) subd. 1.~~, or distribute or exhibit a reproduction made or possessed under ~~par. (a) subd. 1.~~, if the distribution or exhibition is not for commercial purposes.

SECTION 5. 942.09 (4) of the statutes is renumbered 942.09 (2) (cm) and amended to read:

942.09 (2) (cm) This ~~section subsection~~ does not apply to a person who receives a representation or reproduction depicting a child from a parent, guardian, or legal custodian of the child under ~~sub. (3) (b) par. (bm) 2.~~, if the possession, exhibition, or distribution is not for commercial purposes.

SECTION 6. 942.09 (5) of the statutes is created to read:

942.09 (5) (a) Whoever, while present in a locker room, intentionally captures a representation of a nude or partially nude person while the person is nude or partially nude in the locker room is guilty of a Class B misdemeanor. This paragraph does not apply if the person consents to the capture of the representation and one of the following applies:

1. The person is, or the actor reasonably believes that the person is, 18 years of age or over when the person gives his or her consent.

2. The person's parent, guardian, or legal custodian consents to the capture of the representation.

(b) 1. Whoever intentionally does any of the following is guilty of a Class A misdemeanor:

a. Captures a representation of a nude or partially nude person while the actor is present in, and the person is nude or partially nude in, the locker room and exhibits or distributes the representation to another.

b. Transmits or broadcasts an image of a nude or partially nude person from a locker room while the person is nude or partially nude in the locker room.

2. This paragraph does not apply if the person consents to the exhibition or distribution of the representation or the transmission or broadcast of the image and one of the following applies:

a. The person is, or the actor reasonably believes that the person is, 18 years of age or over when the person gives his or her consent.

b. The person's parent, guardian, or legal custodian consents to the exhibition, distribution, transmission, or broadcast.

SECTION 7. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 175.22 of the statutes takes effect on the first day of the 6th month beginning after publication.