

**SENATE SUBSTITUTE AMENDMENT 2,
TO 2007 ASSEMBLY BILL 8**

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

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.** 175.22 of the statutes is created to read:
6 **175.22 Policy on privacy in locker rooms. (1)** In this section:
7 (a) “Person” includes the state.
8 (b) “Recording device” means a camera, a video recorder, or any other device
9 that may be used to record or transfer images.

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

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

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

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

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

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

11 942.09 **(1)** (am) “Nude or partially nude person” has the meaning given in s.
12 942.08 (1) (a).

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

15 942.09 **(2)** (am) 2. Makes a reproduction of a representation that the person
16 knows or has reason to know was captured in violation of ~~par. (a)~~ subd. 1. and that
17 depicts the nudity depicted in the representation captured in violation of ~~par. (a)~~
18 subd. 1., if the person depicted nude in the reproduction did not consent to the
19 making of the reproduction.

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

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

3 942.09 **(2)** (bm) (intro.) Notwithstanding ~~sub. (2) (a), (b), and (c) par. (am)~~, if the
4 person depicted nude in a representation or reproduction is a child and the capture,
5 possession, exhibition, or distribution of the representation, or making, possession,
6 exhibition, or distribution of the reproduction, does not violate s. 948.05 or 948.12,
7 a parent, guardian, or legal custodian of the child may do any of the following:

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

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

13 942.09 **(2)** (cm) This section subsection does not apply to a person who receives
14 a representation or reproduction depicting a child from a parent, guardian, or legal
15 custodian of the child under ~~sub. (3) (b) par. (bm) 2.~~, if the possession, exhibition, or
16 distribution is not for commercial purposes.

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

18 942.09 **(5)** (a) Whoever, while present in a locker room, intentionally captures
19 a representation of a nude or partially nude person while the person is nude or
20 partially nude in the locker room is guilty of a Class B misdemeanor. This paragraph
21 does not apply if the person consents to the capture of the representation and one of
22 the following applies:

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

