



2019 ASSEMBLY BILL 264

June 7, 2019 - Introduced by Representatives JAGLER, STAFSHOLT, BALLWEG, FELZKOWSKI, FIELDS, JAMES, B. MEYERS, PRONSCHINSKE, SKOWRONSKI, SPIROS, TUSLER and ALLEN, cosponsored by Senators BERNIER, WANGGAARD, BEWLEY and SMITH. Referred to Committee on Science and Technology.

1 **AN ACT** *to renumber and amend* 995.50 (2); and *to create* 995.50 (2) (bm) and
2 995.60 of the statutes; **relating to:** the use of a surveillance device by an owner
3 of real estate in connection with the sale of the real estate and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

This bill provides that an owner of real estate may, with certain exceptions, use a surveillance device in or on the real estate, other than in a bathroom or washroom, to observe or record an individual who is present for a private showing, open house, or other viewing of the real estate in connection with the owner's attempt to sell the real estate. The bill specifies that such use of a surveillance device is not an invasion of the individual's privacy under current state law recognizing the right of privacy.

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

5 **SECTION 1.** 995.50 (2) of the statutes is renumbered 995.50 (2) (am), and 995.50
6 (2) (am) 1., as renumbered, is amended to read:
7 995.50 (2) (am) 1. Intrusion upon the privacy of another of a nature highly
8 offensive to a reasonable person, except as provided under par. (bm), in a place that

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1 a reasonable person would consider private, or in a manner ~~which~~ that is actionable
2 for trespass.

3 **SECTION 2.** 995.50 (2) (bm) of the statutes is created to read:

4 995.50 (2) (bm) "Invasion of privacy" does not include the use of a surveillance
5 device under s. 995.60.

6 **SECTION 3.** 995.60 of the statutes is created to read:

7 **995.60 Use of surveillance devices in connection with real estate sales.**

8 **(1) DEFINITIONS.** In this section:

9 (a) "Real estate" means land and the improvements to the land.

10 (b) "Record" means to take a photograph, to make a motion picture, videotape,
11 audiotape, recording, or other visual or audio representation, or to record or store in
12 any medium data that represents a visual image or sound recording.

13 (c) "Representation" means a photograph, exposed film, motion picture,
14 videotape, audiotape, recording, other visual or audio representation, or data that
15 represents a visual image or audio recording.

16 (d) "Surveillance device" means a camera, audio or video recorder, or any other
17 device that may be used to observe, record, or transfer sounds or images.

18 **(2) USE OF SURVEILLANCE DEVICES.** Except as provided under sub. (3), an owner
19 of real estate may use a surveillance device in or on the real estate to observe or record
20 an individual who is present in or on the real estate for a private showing, open
21 house, or other viewing of the real estate in connection with the owner's attempt to
22 sell the real estate.

23 **(3) PROHIBITED USES.** (a) An owner of real estate may not use a surveillance
24 device under sub. (2) in a bathroom or washroom.

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1 (b) 1. Except as provided under subd. 2., an owner of real estate may not copy,
2 sell, rent, broadcast, post, publish, distribute, disclose, transfer, or otherwise share
3 a representation of an individual recorded with a surveillance device under sub. (2).

4 2. An owner of real estate may provide a representation of an individual
5 recorded with a surveillance device under sub. (2) pursuant to a court order or to the
6 request of a law enforcement officer who is investigating possible criminal conduct.

7 **(4) INTERPRETATION.** (a) The use of a surveillance device by an owner of real
8 estate in or on the real estate under this section does not constitute installing a
9 surveillance device in a private place for purposes of s. 942.08 (2) (a).

10 (b) An owner of real estate that records a representation of an individual with
11 a surveillance device under this section does not capture a representation of the
12 individual under circumstances in which the individual has a reasonable
13 expectation of privacy for purposes of s. 942.09 (2) (am) 1.

14 **(5) ENFORCEMENT.** An individual who violates sub. (3) (b) 1. may be required
15 to forfeit not more than \$500.

16 **(END)**