

2019 DRAFTING REQUEST**Bill**

For: **John Jagler (608) 266-9650** Drafter: **kpleviak**
 By: **Charlie** Secondary Drafters:
 Date: **1/29/2019** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Jagler@legis.wisconsin.gov**
 Carbon copy (CC) to: **krista.pleviak@legis.wisconsin.gov**
fern.knepp@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Allow property owner to use recording device during open house or other property showing

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpleviak 2/11/2019	csicilia 2/12/2019			
/P1	kpleviak 3/6/2019		mbarman 2/12/2019		
/P2	kpleviak 3/25/2019	csicilia 3/8/2019	lparisi 3/8/2019		
/P3	kpleviak 4/15/2019	csicilia 3/27/2019	mbarman 3/27/2019		
/P4	kpleviak	csicilia	mbarman		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	4/25/2019	csicilia 4/25/2019	mbarman 4/25/2019	mbarman 4/25/2019	

FE Sent For: ²
none
needed

<END>

2019 DRAFTING REQUEST

Bill

J Rep Jagler

For: **Barbara Dittrich (608) 266-8551**

Drafter: **kpleviak**

By: **(herself)** *Charlie*

Secondary Drafters:

Date: **1/29/2019**

KRP

May Contact:

Same as LRB:

Submit via email:

YES

Requester's email:

Rep.Dittrich@legis.wisconsin.gov → *Charge*

Carbon copy (CC) to:

krista.pleviak@legis.wisconsin.gov

fern.knepp@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Allow homeowner to use recording device during open house or other house showing

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpleviak 2/11/2019	csicilia 2/12/2019			
/P1			mbarman 2/12/2019		

FE Sent For:

<END>

Pleviak, Krista

From: Dittrich, Barbara
Sent: Tuesday, January 29, 2019 3:11 PM
To: Pleviak, Krista
Subject: Proposed Legislation

Hi Krista,

I want to get started on drafting a bill to clarify that there is no reasonable expectation of privacy in a home during an individual showing or open house. How do we get started?

Thanks,

Barbara Dittrich

Representative to Wisconsin's
38th Assembly District

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1706/P1dn
KRP:cjs

February 12, 2019

Rep. Dittrich:

In preparing this bill, I have attempted to create reasonable restrictions and limitations on a homeowner's right to use a surveillance device in connection with the sale of a home. However, those restrictions and limitations are a matter of policy for you to decide, and the restrictions and limitations included in the bill are merely placeholders and suggestions. Please carefully consider whether more, fewer, or simply different limitations or prohibited uses should apply.

I also have attempted to identify other current statutes related to privacy and the use of surveillance devices and to clarify potential conflicts between the bill and current law. Please consider whether the way in which I attempted to resolve those conflicts is consistent with your intent and whether other conflicts exist that are not currently addressed in the bill.

The bill, as currently drafted, does not create any penalties for a homeowner who uses a surveillance device in a way that is not authorized by the bill. Depending on the circumstances of the use, an aggrieved individual may have a remedy under s. 995.50, stats., and criminal laws may apply.

Note that the bill does not address what constitutes a reasonable expectation of privacy for constitutional purposes, including under the 4th Amendment.

Krista R. Pleviak
Legislative Attorney
(608) 504-5818
krista.pleviak@legis.wisconsin.gov

Pleviak, Krista

From: Dittrich, Barbara
Sent: Thursday, February 14, 2019 4:18 PM
To: Pleviak, Krista
Cc: Jagler, John
Subject: RE: Proposed Legislation

Hi Krista,

Just a note to tell you that I have passed along Draft #1706 to Rep Jagler as I was unaware that he was already planning on spearheading this piece of legislation. Please release all info to his office.

Thanks,
Barbara Dittrich



(608) 266-8551

(888) 534-0038

<https://www.facebook.com/RepDittrich/>

<https://twitter.com/RepDittrich>

<https://www.instagram.com/repdittrich/>

From: Pleviak, Krista <Krista.Pleviak@legis.wisconsin.gov>
Sent: Tuesday, January 29, 2019 4:54 PM
To: Dittrich, Barbara <Barbara.Dittrich@legis.wisconsin.gov>
Subject: RE: Proposed Legislation

Got it. Thanks!

Krista R. Pleviak
Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 504-5818
krista.pleviak@legis.wisconsin.gov

Pleviak, Krista

From: Bellin, Charlie
Sent: Friday, March 1, 2019 11:11 AM
To: Pleviak, Krista
Subject: lrb 1706
Attachments: WRA_P1_comments_Jagler.pdf

Hi Krista,

Could you make some changes the bill noted in the attached file?

Thanks!

*Charlie Bellin
Research Assistant
Rep. John Jagler
37th Assembly District
608-266-9650*



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1706/P1
KRP:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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 a
3 homeowner in connection with the sale of a home.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

4 **SECTION 1.** 995.50 (2) of the statutes is renumbered 995.50 (2) (am), and 995.50
5 (2) (am) 1., as renumbered, is amended to read:

6 995.50 (2) (am) 1. Intrusion upon the privacy of another of a nature highly
7 offensive to a reasonable person, except as provided under par. (bm), in a place that
8 a reasonable person would consider private, or in a manner which that is actionable
9 for trespass.

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

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

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

5 995.60 Use of surveillance devices in connection with home sales. (1)

6 DEFINITIONS. In this section:

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

10 (b) "Representation" means a photograph, exposed film, motion picture,
11 videotape, audiotape, recording, other visual or audio representation, or data that
12 represents a visual image or audio recording.

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

15 (2) USE OF SURVEILLANCE DEVICES. Except as provided under sub. (4) and subject
16 to sub. (3), a homeowner may use a surveillance device in the homeowner's home to
17 observe or record an individual who is present in the home for a private showing,
18 open house, or other viewing of the home in connection with the homeowner's
19 attempt to sell the home.

***NOTE: The terms "homeowner" and "home" may need to be defined or modified. Please consider whether those terms are too narrow or too broad. For example, there are many types of ownership, even for homes. An individual may own his or her home through a revocable trust or another entity, such as a limited liability company. An individual may live in a home in which the individual owns a life estate and someone else owns the remainder. An individual may own a home jointly with one or more others, who may or may not also live in the home. An individual may own equitable title to a home under a land contract, while someone else continues to hold legal title. Also consider what is and is not included in the term "home." Does the home include only the living spaces or also garages, sheds, unfinished basements, etc.? Does the home include the areas on the property outside of the building? If outside areas are included, may a surveillance

Property
← Changing this to address all property. Not just residential

request property owner to be broadly defined

request draft to reflect a broad definition of property e.g. premises so it includes dwellings and other structures

and the land around them

device be aimed in such a way that it captures a neighbor's property or nearby public areas?

****NOTE: As currently drafted, this bill does not address whether a homeowner's rights and protections created in the bill may be delegated to an agent, such as a real estate agent or an agent under a power of attorney. Please let me know if you want to address that issue in the bill.

1 ~~(3) LIMITATIONS. A homeowner who uses a surveillance device in the~~
2 ~~homeowner's home under sub. (2) shall do all of the following:~~

3 ~~(a) Obtain from all occupants of the home consent to the use of the surveillance~~
4 ~~device as provided under sub. (2).~~

5 ~~(b) At all times that the surveillance device is in use and an individual~~
6 ~~described under sub. (2) is present in the home, post a sign in a prominent place in~~
7 ~~the home that is visible to the individual upon entering the home and that informs~~
8 ~~the individual that a surveillance device is in use in the home.~~

9 ~~(c) Include in all advertisements for the sale of the home, including an~~
10 ~~announcement of an open house or other opportunity for members of the public to~~
11 ~~view the home, a notice that a surveillance device will be used in the home.~~

12 ~~(d) Destroy a representation of an individual recorded with a surveillance~~
13 ~~device under sub. (2) no later than 3 months after the homeowner records the~~
14 ~~representation.~~

15 (4) PROHIBITED USES. (a) A homeowner may not use a surveillance device under
16 sub. (2) in a bathroom or washroom.

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

1 2. A homeowner may provide a representation of an individual recorded with
2 a surveillance device under sub. (2) pursuant to a court order or to a law enforcement
3 officer who is investigating possible criminal conduct.

4 (5) INTERPRETATION. (a) The use of a surveillance device in a homeowner's home
5 under this section does not constitute installing a surveillance device in a private
6 place for purposes of s. 942.08 (2) (a).

7 (b) A homeowner who records a representation of an individual with a
8 surveillance device under this section does not capture a representation of the
9 individual under circumstances in which the individual has a reasonable
10 expectation of privacy for purposes of s. 942.09 (2) (am) 1.

****NOTE: As this bill is currently drafted, a homeowner may not reproduce, distribute, or exhibit a representation recorded with a surveillance device, and the homeowner must destroy the representation within 3 months. However, the bill does not create a penalty for a homeowner who fails to comply with those requirements, and the criminal penalties under s. 942.09 (2) (am) 2. and 3., stats., do not apply. Let me know if that is not consistent with your intent.

(END)

11 Wouldn't the
 penalty be the
 same as the rest
 of 995.50?



State of Wisconsin
2019 - 2020 LEGISLATURE

IN: 03/06/19
DUE: 03/08/19 (Fri.)

LRB-1706/P1
KRP:cjs

P2
AMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Stat compare
Cen Cal

an owner of real estate

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 a
3 homeowner in connection with the sale of a home the real estate

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

4 SECTION 1. 995.50 (2) of the statutes is renumbered 995.50 (2) (am), and 995.50
5 (2) (am) 1., as renumbered, is amended to read:
6 995.50 (2) (am) 1. Intrusion upon the privacy of another of a nature highly
7 offensive to a reasonable person, except as provided under par. (bm), in a place that
8 a reasonable person would consider private, or in a manner which that is actionable
9 for trespass.

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

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

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

5 995.60 Use of surveillance devices in connection with home sales. (1)

real estate

6 DEFINITIONS. In this section:

INSERT 2-7

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

10 (c) (b) "Representation" means a photograph, exposed film, motion picture,
11 videotape, audiotape, recording, other visual or audio representation, or data that
12 represents a visual image or audio recording.

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

15 (2) USE OF SURVEILLANCE DEVICES. Except as provided under sub. (1) and subject
16 to sub. (3), a homeowner ^{an owner of real estate} may use a surveillance device ^{or on} in the homeowner's home ^{real estate} to
17 observe or record an individual who is present ^{or on} in the home ^{real estate} for a private showing,
18 open house, or other viewing of the home ^{real estate} in connection with the homeowner's
19 attempt to sell the home ^{real estate}.

INSERT 2-19

****NOTE: The terms "homeowner" and "home" may need to be defined or modified. Please consider whether those terms are too narrow or too broad. For example, there are many types of ownership, even for homes. An individual may own his or her home through a revocable trust or another entity, such as a limited liability company. An individual may live in a home in which the individual owns a life estate and someone else owns the remainder. An individual may own a home jointly with one or more others, who may or may not also live in the home. An individual may own equitable title to a home under a land contract, while someone else continues to hold legal title. Also consider what is and is not included in the term "home." Does the home include only the living spaces or also garages, sheds, unfinished basements, etc.? Does the home include the areas on the property outside of the building? If outside areas are included, may a surveillance

device be aimed in such a way that it captures a neighbor's property or nearby public areas?

****NOTE: As currently drafted, this bill does not address whether a homeowner's rights and protections created in the bill may be delegated to an agent, such as a real estate agent or an agent under a power of attorney. Please let me know if you want to address that issue in the bill.

1 (3) LIMITATIONS. A homeowner who uses a surveillance device in the
2 homeowner's home under sub. (2) shall do all of the following:

3 (a) Obtain from all occupants of the home consent to the use of the surveillance
4 device as provided under sub. (2).

5 (b) At all times that the surveillance device is in use and an individual
6 described under sub. (2) is present in the home, post a sign in a prominent place in
7 the home that is visible to the individual upon entering the home and that informs
8 the individual that a surveillance device is in use in the home.

9 (c) Include in all advertisements for the sale of the home, including an
10 announcement of an open house or other opportunity for members of the public to
11 view the home, a notice that a surveillance device will be used in the home.

12 (d) Destroy a representation of an individual recorded with a surveillance
13 device under sub. (2) no later than 3 months after the homeowner records the
14 representation.

15 (3) (4) PROHIBITED USES. (a) A homeowner may not use a surveillance device under
16 sub. (2) in a bathroom or washroom.

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

SECTION 3

An owner of real estate

the request of

1

2. A homeowner may provide a representation of an individual recorded with a surveillance device under sub. (2) pursuant to a court order or to a law enforcement officer who is investigating possible criminal conduct.

by an owner of real estate in or on the real estate

4

4

(5) INTERPRETATION. (a) The use of a surveillance device in a homeowner's home under this section does not constitute installing a surveillance device in a private place for purposes of s. 942.08 (2) (a).

An owner of real estate that

7

(b) A homeowner who records a representation of an individual with a surveillance device under this section does not capture a representation of the individual under circumstances in which the individual has a reasonable expectation of privacy for purposes of s. 942.09 (2) (am) 1.

****NOTE: As this bill is currently drafted, a homeowner may not reproduce, distribute, or exhibit a representation recorded with a surveillance device, and the homeowner must destroy the representation within 3 months. However, the bill does not create a penalty for a homeowner who fails to comply with those requirements, and the criminal penalties under s. 942.09 (2) (am) 2. and 3., stats., do not apply. Let me know if that is not consistent with your intent.

an owner that

that

11

(END)

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1706/P2ins
KRP:...

INSERT 2-7

1

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

****NOTE: "Land" is defined in s. 990.01 (18), stats. ✓

(END INSERT 2-7)

INSERT 2-19

****NOTE: Please let me know how you want to define the term "owner." Please consider all of the following:

Does "owner" include any non-human persons (for example, a trust, corporation, or limited liability company)? If yes, are any types of persons excluded (for example, a government body)?

If "owner" includes one or more types of non-human persons, for each type, who (in other words, what human being) may exercise the rights created in the bill on behalf of the person? ✓

What types of ownership interests entitle a person to exercise the rights of an "owner" under the bill? For example, if a person owns a life estate in real estate, is the person an owner for purposes of the bill? What about the person that owns the remainder interest? If the real estate is subject to a land contract, is the land contract vendee, the vendor, or both, an owner of the real estate? A lender may have an interest in real estate as security for a debt--is a lender an "owner"? In other words, what type of ownership interest affords a person the right to use a surveillance device on real estate under the bill? ✓

If real estate is owned by more than one person, may any owner exercise the rights of an "owner" under the bill without the consent of other owners or even if another owner objects? ✓

(END INSERT 2-19)

Pleviak, Krista

From: Bellin, Charlie
Sent: Tuesday, March 19, 2019 10:25 AM
To: Pleviak, Krista
Subject: LRB 1706/p2

Hi Krista,

Here are our comments for the P2 draft:

Page 2 – Note: recommend making the definition of owner as broad as possible and therefore support the non-human persons examples provided in the draft. As to exemptions, we are not clear on why a government body would need to be specifically exempted?

Page 3 – Note #1: recommend allowing the human being who is exercising the right on behalf of the human being to be the authorized individual on behalf of the non-human – for instance, if it's a trust then the trustee, if it's an LLC an agent of the LLC, etc.

Page 3 – Note #2: recommend leaving this out

Page 3 – Note #3: yes, any owner of the property should be able to exercise their rights

Page 3 – Note #4: recommend leaving this out

Page 4 – lines 13-14 and page 4 lines 1-2. Recommend the interpretation clarify that it's only a violation of 942.09(2)(am)1 if there is an intimate representation of the person in the bathroom that could result in a Class I felony.

Page 4 – Note: Anyone who violates (3)(b)1. May be required to forfeit no more than \$500.

Thanks for all your help.

Charlie Bellin
Research Assistant
Rep. John Jagler
37th Assembly District
608-266-9650

*Per Charlie: 03/22/19
Comments are from
Cory Lemont, Wis. Realtors
Association. Discuss
the comments with her and
incorporate any changes she requests into
the next P draft.
-KRP*

19-1706



03/22/19: Telephone conference with Corp¹

- Leave "owner" undefined to give it the broadest interpretation. There's no need to specify who may act on behalf of an owner — an individual authorized to act on behalf an entity may exercise that entity's rights under the bill.
- Any owner may exercise rights if there's more than one. The bill as currently drafted allows this by using "an owner." No changes needed.
- Keep the prohibition on surveillance in a bathroom, then there's no need to change the interpretation ~~to~~ of the bill with respect to s. 942.09 (2) (am) 1.

-KRP



State of Wisconsin
2019 - 2020 LEGISLATURE

IN: 03/25/19
DUE: 03/27/19 (Wed.)

LRB-1706/P2

KRP:cjs

Stays
RMR

P3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Coer Cat

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.

INSERT
1-3

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

INSERT
A-1

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

4 SECTION 1. 995.50 (2) of the statutes is renumbered 995.50 (2) (am), and 995.50
5 (2) (am) 1., as renumbered, is amended to read:

6 995.50 (2) (am) 1. Intrusion upon the privacy of another of a nature highly
7 offensive to a reasonable person, except as provided under par. (bm), in a place that
8 a reasonable person would consider private, or in a manner which that is actionable
9 for trespass.

^

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

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

^

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

5 **995.60 Use of surveillance devices in connection with real estate sales.**

6 (1) DEFINITIONS. In this section:

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

****NOTE: "Land" is defined in s. 990.01 (18), stats.

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

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

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

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

****NOTE: Please let me know how you want to define the term "owner." Please consider all of the following:

Does "owner" include any non-human persons (for example, a trust, corporation, or limited liability company)? If yes, are any types of persons excluded (for example, a government body)?

If "owner" includes one or more types of non-human persons, for each type, who (in other words, what human being) may exercise the rights created in the bill on behalf of the person?

What types of ownership interests entitle a person to exercise the rights of an "owner" under the bill? For example, if a person owns a life estate in real estate, is the person an owner for purposes of the bill? What about the person that owns the remainder interest? If the real estate is subject to a land contract, is the land contract vendee, the vendor, or both, an owner of the real estate? A lender may have an interest in real estate as security for a debt--is a lender an "owner"? In other words, what type of ownership interest affords a person the right to use a surveillance device on real estate under the bill?

If real estate is owned by more than one person, may any owner exercise the rights of an "owner" under the bill without the consent of other owners or even if another owner objects?

****NOTE: As currently drafted, this bill does not address whether an owner's rights created in the bill may be delegated to an agent, such as a real estate agent or an agent under a power of attorney. Please let me know if you want to address that issue in the bill.

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

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

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

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

13 (b) An owner of real estate that records a representation of an individual with
14 a surveillance device under this section does not capture a representation of the

1 individual under circumstances in which the individual has a reasonable
2 expectation of privacy for purposes of s. 942.09 (2) (am) 1.

INSERT
4-3

****NOTE: As this bill is currently drafted, an owner may not reproduce, distribute, or exhibit a representation recorded with a surveillance device. However, the bill does not create a penalty for an owner that fails to comply with that requirement, and the criminal penalties under s. 942.09 (2) (am) 2. and 3., stats., do not apply. Let me know if that is not consistent with your intent.

3

(END)

2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1706/P3ins
KRP:...

INSERT 1-3

1 *noP* and providing a penalty *noP*

(END INSERT 1-3)

INSERT A-1

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.

(END INSERT A-1)

INSERT 4-3

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

(END INSERT 4-3)

Pleviak, Krista

From: Bellin, Charlie
Sent: Friday, April 12, 2019 4:29 PM
To: Pleviak, Krista
Subject: LRB1706

Hello Krista,

Just one quick deletion and I think we are ready to go. Page 3, lines 2-3 delete or other transmissions.

We are concerned that this goes too broadly since a number of security services send notifications to the users phones, emails, etc.

Thanks! Have a good weekend.

*Charlie Bellin
Research Assistant
Rep. John Jagler
37th Assembly District
608-266-9650*



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1706/P3
KRP:cjs

P4

TODAY

RMK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
ADP

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

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.

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
3 **transmit or** share a representation of an individual recorded with a surveillance
4 device under sub. (2).

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

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

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

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

17 (END)

Pleviak, Krista

From: Bellin, Charlie
Sent: Thursday, April 25, 2019 1:12 PM
To: Pleviak, Krista
Subject: FW: Draft review: LRB -1706/P4
Attachments: 19-1706/P4.pdf

I was just testing☺(ok not really, good catch though)

This is the one we need jacketed. Thanks!

*Charlie Bellin
Research Assistant
Rep. John Jagler
37th Assembly District
608-266-9650*

From: LRB.Legal <lrblegal@legis.wisconsin.gov>
Sent: Monday, April 15, 2019 11:13 AM
To: Rep.Jagler <Rep.Jagler@legis.wisconsin.gov>
Subject: Draft review: LRB -1706/P4

Following is the PDF version of draft LRB -1706/P4.



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1706/P4
KRP:cjs

TODAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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No CHANGES

on
stat compare

Ge Cat

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Barman, Mike

From: LRB.Legal
To: Rep.Jagler
Subject: Draft review: LRB -1706/1
Attachments: 19-1706/1

**State of Wisconsin - Legislative Reference Bureau
One East Main Street - Suite 200 - Madison**

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Krista Pleviak, Legislative Attorney, at (608) 504-5818, at krista.pleviak@legis.wisconsin.gov, or at One East Main Street, Suite 200.

We will jacket this draft for introduction in the Assembly.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.