

## CHAPTER 942

## CRIMES AGAINST REPUTATION, PRIVACY AND CIVIL LIBERTIES

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**942.01 Defamation.** (1) Whoever with intent to defame communicates any defamatory matter to a third person without the consent of the person defamed is guilty of a Class A misdemeanor.

(2) Defamatory matter is anything which exposes the other to hatred, contempt, ridicule, degradation or disgrace in society or injury in the other's business or occupation.

(3) This section does not apply if the defamatory matter was true and was communicated with good motives and for justifiable ends or if the communication was otherwise privileged.

(4) No person shall be convicted on the basis of an oral communication of defamatory matter except upon the testimony of 2 other persons that they heard and understood the oral statement as defamatory or upon a plea of guilty or no contest.

**History:** 1977 c. 173; 1979 c. 110 s. 60 (6); 1993 a. 486.

The defense of conditional privilege applies to criminal defamation, but the defense is not absolute and may be forfeited if abused. *State v. Gilles*, 173 Wis. 2d 101, 496 N.W.2d 133 (Ct. App. 1992).

Perjury committed in a judicial proceeding is absolutely privileged under sub. (3). The sanction for perjury is under the perjury statute, s. 946.31, and not under the defamation statute. *State v. Cardenas-Hernandez*, 219 Wis. 2d 516, 579 N.W.2d 678 (1998).

**942.03 Giving false information for publication.** Whoever, with intent that it be published and that it injure any person, and with knowledge that it is false, communicates to a newspaper, magazine, or other publication any false statement concerning any person or any false and unauthorized advertisement is guilty of a Class A misdemeanor.

**History:** 1977 c. 173.

**942.05 Opening letters.** Whoever does either of the following is guilty of a Class A misdemeanor:

(1) Knowing that he or she does not have the consent of either the sender or the addressee, intentionally opens any sealed letter or package addressed to another; or

(2) Knowing that a sealed letter or package has been opened without the consent of either the sender or addressee, intentionally publishes any of the contents thereof.

**History:** 1977 c. 173; 1993 a. 486.

**942.06 Use of polygraphs and similar tests.** (1) Except as provided in sub. (2m), no person may require or administer a polygraph, voice stress analysis, psychological stress evaluator or any other similar test purporting to test honesty without the prior written and informed consent of the subject.

(2) Except as provided in sub. (2q), no person may disclose that another person has taken a polygraph, voice stress analysis, psychological stress evaluator or any other similar test purporting to test honesty and no person may disclose the results of such a test to any person except the person tested, without the prior written and informed consent of the subject.

(2m) Subsection (1) does not apply to any of the following:

(a) An employee or agent of the department of corrections who conducts a lie detector test of a sex offender under s. 301.132.

(b) An employee or agent of the department of health and family services who conducts a lie detector test of a person under the rules promulgated under s. 51.375.

(2q) Subsection (2) does not apply to any of the following:

(a) An employee or agent of the department of corrections who discloses, to any of the following, the fact that a sex offender has

had a lie detector test under s. 301.132 or the results of such a lie detector test:

1. Another employee or agent of the department of corrections.

2. Another agency or person, if the information disclosed will be used for purposes related to correctional programming or care and treatment.

(b) An employee or agent of the department of health and family who discloses, to any of the following, the fact that a person has had a lie detector test under the rules promulgated under s. 51.375 or the results of such a lie detector test:

1. Another employee or agent of the department of health and family services.

2. Another agency or person, if the information disclosed will be used for purposes related to programming or care and treatment for the person.

(3) Whoever violates this section is guilty of a Class B misdemeanor.

**History:** 1979 c. 319; 1995 a. 440; 1997 a. 283; 1999 a. 89.

**942.07 Use of genetic tests.** (1) In this section:

(a) "Employer" has the meaning given in s. 111.32 (6).

(b) "Employment agency" has the meaning given in s. 111.32 (7).

(c) "Genetic test" means a test of a person's genes, gene products or chromosomes for abnormalities or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, impairment or other disorders, whether physical or mental, or that demonstrate genetic or chromosomal damage due to environmental factors.

(d) "Labor organization" has the meaning given in s. 111.32 (9).

(e) "Licensing agency" has the meaning given in s. 111.32 (11).

(2) No employer, labor organization, employment agency or licensing agency may require or administer a genetic test without the prior written and informed consent of the employee, labor organization member or licensee, or of the prospective employee, labor organization member or licensee, who is the subject of the test.

(3) No person may disclose to an employer, labor organization, employment agency or licensing agency that an employee, labor organization member or licensee, or a prospective employee, labor organization member or licensee, has taken a genetic test, and no person may disclose the results of such a test to an employer, labor organization, employment agency or licensing agency without the prior written and informed consent of the subject of the test.

(4) Whoever violates this section is guilty of a Class B misdemeanor.

**History:** 1991 a. 117.

**942.08 Invasion of privacy.** (1) In this section:

(a) "Nude or partially nude person" means any human being who has less than fully and opaquely covered genitals, pubic area or buttocks, any female human being who has less than a fully

opaque covering over any portion of a breast below the top of the nipple, or any male human being with covered genitals in a discernibly turgid state.

(b) “Private place” means a place where a person may reasonably expect to be safe from surveillance.

(c) “Surveillance device” means any device, instrument, apparatus, implement, mechanism or contrivance used, designed to be

used or primarily intended to be used to observe the activities of a person. “Surveillance device” includes a peephole.

**(2)** Whoever knowingly installs a surveillance device in any private place, or uses 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 is guilty of a Class A misdemeanor.

**History:** 1997 a. 271.