

# HB5963



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5963

Introduced 2/10/2010, by Rep. Jim Sacia

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/14-2

from Ch. 38, par. 14-2

Amends the Criminal Code of 1961. Permits the use of an eavesdropping device with the consent of any one party (rather than all of the parties) to the conversation or electronic communication and at the request of a State's Attorney. Permits a person to use or divulge information obtained by the use of an eavesdropping device in a criminal proceeding. Effective immediately.

LRB096 18098 RLC 33473 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 14-2 as follows:

6 (720 ILCS 5/14-2) (from Ch. 38, par. 14-2)

7 Sec. 14-2. Elements of the offense; affirmative defense.

8 (a) A person commits eavesdropping when he:

9 (1) Knowingly and intentionally uses an eavesdropping  
10 device for the purpose of hearing or recording all or any  
11 part of any conversation or intercepts, retains, or  
12 transcribes electronic communication unless he does so (A)  
13 with the consent of any one party ~~all of the parties~~ to  
14 such conversation or electronic communication and at the  
15 request of a State's Attorney or (B) in accordance with  
16 Article 108A or Article 108B of the "Code of Criminal  
17 Procedure of 1963", approved August 14, 1963, as amended;  
18 or

19 (2) Manufactures, assembles, distributes, or possesses  
20 any electronic, mechanical, eavesdropping, or other device  
21 knowing that or having reason to know that the design of  
22 the device renders it primarily useful for the purpose of  
23 the surreptitious hearing or recording of oral

1           conversations or the interception, retention, or  
2           transcription of electronic communications and the  
3           intended or actual use of the device is contrary to the  
4           provisions of this Article; or

5           (3) Uses or divulges, except in a criminal proceeding  
6           or as authorized by this Article or by Article 108A or 108B  
7           of the "Code of Criminal Procedure of 1963", approved  
8           August 14, 1963, as amended, any information which he knows  
9           or reasonably should know was obtained through the use of  
10          an eavesdropping device.

11          (b) It is an affirmative defense to a charge brought under  
12          this Article relating to the interception of a privileged  
13          communication that the person charged:

14                 1. was a law enforcement officer acting pursuant to an  
15                 order of interception, entered pursuant to Section 108A-1  
16                 or 108B-5 of the Code of Criminal Procedure of 1963; and

17                 2. at the time the communication was intercepted, the  
18                 officer was unaware that the communication was privileged;  
19                 and

20                 3. stopped the interception within a reasonable time  
21                 after discovering that the communication was privileged;  
22                 and

23                 4. did not disclose the contents of the communication.

24          (c) It is not unlawful for a manufacturer or a supplier of  
25          eavesdropping devices, or a provider of wire or electronic  
26          communication services, their agents, employees, contractors,

1 or venders to manufacture, assemble, sell, or possess an  
2 eavesdropping device within the normal course of their business  
3 for purposes not contrary to this Article or for law  
4 enforcement officers and employees of the Illinois Department  
5 of Corrections to manufacture, assemble, purchase, or possess  
6 an eavesdropping device in preparation for or within the course  
7 of their official duties.

8 (d) The interception, recording, or transcription of an  
9 electronic communication by an employee of a penal institution  
10 is not prohibited under this Act, provided that the  
11 interception, recording, or transcription is:

12 (1) otherwise legally permissible under Illinois law;

13 (2) conducted with the approval of the penal  
14 institution for the purpose of investigating or enforcing a  
15 State criminal law or a penal institution rule or  
16 regulation with respect to inmates in the institution; and

17 (3) within the scope of the employee's official duties.

18 For the purposes of this subsection (d), "penal  
19 institution" has the meaning ascribed to it in clause (c)(1) of  
20 Section 31A-1.1.

21 (Source: P.A. 94-183, eff. 1-1-06.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.