

HB4534



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4534

Introduced 1/31/2012, 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.

LRB097 14836 RLC 59867 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.