

# HB4693



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4693**

Introduced 2/3/2012, by Rep. Robert W. Pritchard

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/14-2

from Ch. 38, par. 14-2

Amends the Criminal Code of 1961. Provides that it is not a violation of the Eavesdropping Article for a person to use an eavesdropping device to record a government official engaged in his or her official duties in a public place, including a police officer, unless the recording significantly impacts the government official's ability to perform these duties or creates a danger to the government official or others.

LRB097 17045 RLC 62241 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 all of the parties to such conversation  
14 or electronic communication or (B) in accordance with  
15 Article 108A or Article 108B of the "Code of Criminal  
16 Procedure of 1963", approved August 14, 1963, as amended;  
17 or

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

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

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

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

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

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

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

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

22 (c) It is not unlawful for a manufacturer or a supplier of  
23 eavesdropping devices, or a provider of wire or electronic  
24 communication services, their agents, employees, contractors,  
25 or venders to manufacture, assemble, sell, or possess an  
26 eavesdropping device within the normal course of their business

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

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

10 (1) otherwise legally permissible under Illinois law;

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

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

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

19 (e) It is not a violation of this Article for a person to  
20 use an eavesdropping device to record a government official  
21 engaged in his or her official duties in a public place,  
22 including a police officer, unless the recording significantly  
23 impacts the government official's ability to perform these  
24 duties or creates a danger to the government official or  
25 others.

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