



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB4465**

Introduced 2/3/2020, by Rep. Allen Skillicorn

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/14-2

from Ch. 38, par. 14-2

Amends the Criminal Code of 2012. Provides that it is not eavesdropping if the recording of the private conversation or private electronic communication is made with the consent of one party to the private conversation or private electronic communication who has full knowledge and notice that the private conversation or private electronic communication will be used, disclosed, overheard, transmitted, transcribed, or recorded.

LRB101 17184 RLC 66586 b

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 2012 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 or she knowingly  
9 and intentionally:

10 (1) Uses an eavesdropping device, in a surreptitious  
11 manner, for the purpose of overhearing, transmitting, or  
12 recording all or any part of any private conversation to  
13 which he or she is not a party unless he or she does so with  
14 the consent of one party ~~all of the parties~~ to the private  
15 conversation who has full knowledge and notice that the  
16 private conversation will be overheard, transmitted, or  
17 recorded;

18 (2) Uses an eavesdropping device, in a surreptitious  
19 manner, for the purpose of transmitting or recording all or  
20 any part of any private conversation to which he or she is  
21 a party unless he or she does so with the consent of one  
22 party ~~all other parties~~ to the private conversation who has  
23 full knowledge and notice that the private conversation

1 will be transmitted or recorded;

2 (3) Intercepts, records, or transcribes, in a  
3 surreptitious manner, any private electronic communication  
4 to which he or she is not a party unless he or she does so  
5 with the consent of one party ~~all parties~~ to the private  
6 electronic communication who has full knowledge and notice  
7 that the private electronic communication will be  
8 intercepted, recorded, or transcribed;

9 (4) Manufactures, assembles, distributes, or possesses  
10 any electronic, mechanical, eavesdropping, or other device  
11 knowing that or having reason to know that the design of  
12 the device renders it primarily useful for the purpose of  
13 the surreptitious overhearing, transmitting, or recording  
14 of private conversations or the interception, or  
15 transcription of private electronic communications and the  
16 intended or actual use of the device is contrary to the  
17 provisions of this Article; or

18 (5) Uses or discloses any information which he or she  
19 knows or reasonably should know was obtained from a private  
20 conversation or private electronic communication in  
21 violation of this Article, unless he or she does so with  
22 the consent of one party to the private conversation or  
23 private electronic communication who has full knowledge  
24 and notice that the private conversation or private  
25 electronic communication will be used or disclosed ~~all of~~  
26 ~~the parties.~~

1 (a-5) It does not constitute a violation of this Article to  
2 surreptitiously use an eavesdropping device to overhear,  
3 transmit, or record a private conversation, or to  
4 surreptitiously intercept, record, or transcribe a private  
5 electronic communication, if the overhearing, transmitting,  
6 recording, interception, or transcription is done in  
7 accordance with Article 108A or Article 108B of the Code of  
8 Criminal Procedure of 1963.

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) Nothing in this Article shall prohibit any individual,  
20 not a law enforcement officer, from recording a law enforcement  
21 officer in the performance of his or her duties in a public  
22 place or in circumstances in which the officer has no  
23 reasonable expectation of privacy. However, an officer may take  
24 reasonable action to maintain safety and control, secure crime  
25 scenes and accident sites, protect the integrity and  
26 confidentiality of investigations, and protect the public

1 safety and order.

2 (Source: P.A. 98-1142, eff. 12-30-14; 99-352, eff. 1-1-16.)