



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

Introduced 02/04/04, by John J. Millner, Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/14-2

from Ch. 38, par. 14-2

Amends the Criminal Code of 1961 relating to exemptions from eavesdropping violations. Permits the interception, recording, or transcription of an electronic communication by an employee of a penal institution (rather than an employee of the Illinois Department of Corrections), provided that the interception, recording, or transcription is: (1) otherwise legally permissible under Illinois law; (2) conducted with the approval of the penal institution (rather than the Illinois Department of Corrections) for the purpose of investigating or enforcing a State criminal law or a penal institution rule or regulation (rather than a Department rule or regulation) with respect to inmates in the penal institution (rather than persons committed to the Illinois Department of Corrections); and (3) within the scope of the employee's official duties.

LRB093 18856 RLC 44591 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 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  
24 transcription of electronic communications and the  
25 intended or actual use of the device is contrary to the  
26 provisions of this Article; or

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

32 (b) It is an affirmative defense to a charge brought under

1 this Article relating to the interception of a privileged  
2 communication that the person charged:

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

6 2. at the time the communication was intercepted, the  
7 officer was unaware that the communication was privileged;  
8 and

9 3. stopped the interception within a reasonable time  
10 after discovering that the communication was privileged;  
11 and

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

13 (c) It is not unlawful for a manufacturer or a supplier of  
14 eavesdropping devices, or a provider of wire or electronic  
15 communication services, their agents, employees, contractors,  
16 or vendors to manufacture, assemble, sell, or possess an  
17 eavesdropping device within the normal course of their business  
18 for purposes not contrary to this Article or for law  
19 enforcement officers and employees of the Illinois Department  
20 of Corrections to manufacture, assemble, purchase, or possess  
21 an eavesdropping device in preparation for or within the course  
22 of their official duties.

23 (d) The interception, recording, or transcription of an  
24 electronic communication by an employee of a penal institution  
25 ~~the Illinois Department of Corrections~~ is not prohibited under  
26 this Act, provided that the interception, recording, or  
27 transcription is:

28 (1) otherwise legally permissible under Illinois law;

29 (2) conducted with the approval of the penal  
30 institution ~~Illinois Department of Corrections~~ for the  
31 purpose of investigating or enforcing a State criminal law  
32 or a penal institution ~~Department~~ rule or regulation with  
33 respect to inmates in the institution ~~persons committed to~~  
34 ~~the Department~~; and

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

36 For the purposes of this subsection (d), "penal

1 institution" has the meaning ascribed to it in clause (c)(1) of  
2 Section 31A-1.1.

3 (Source: P.A. 91-657, eff. 1-1-00.)