

AN ACT concerning criminal law.

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

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

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

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

(a) A person commits eavesdropping when he:

(1) Knowingly and intentionally uses an eavesdropping device for the purpose of hearing or recording all or any part of any conversation or intercepts, retains, or transcribes electronic communication unless he does so (A) with the consent of all of the parties to such conversation or electronic communication or (B) in accordance with Article 108A or Article 108B of the "Code of Criminal Procedure of 1963", approved August 14, 1963, as amended; or

(2) Manufactures, assembles, distributes, or possesses any electronic, mechanical, eavesdropping, or other device knowing that or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious hearing or recording of oral conversations or the interception, retention, or transcription of electronic communications and the intended or actual use of the device is contrary to the provisions of this Article; or

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

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

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

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

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

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

4. did not disclose the contents of the communication.

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

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

(1) otherwise legally permissible under Illinois law;

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

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

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

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

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