



## 2013 ASSEMBLY BILL 852

March 7, 2014 – Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary.

1     **AN ACT** *to amend* 968.27 (12) of the statutes; **relating to:** the definition of an  
2             oral communication for purposes of authorizing or prohibiting an interception  
3             of an oral communication.

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### *Analysis by the Legislative Reference Bureau*

Current law generally prohibits a person from aurally recording or otherwise using a device to intercept another person's (speaker's) oral communications unless a court has authorized the interception or unless the person is a party to the communication or the speaker or another party to the communication has given permission for the interception. Current law defines "oral communication" in part as any oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying the expectation.

In *State v. Duchow*, 2008 WI 57, 310 Wis. 2d 1, 749 N.W.2d 913, 05-2175, the Wisconsin Supreme Court held that the definition of "oral communication" incorporates a reasonable expectation of privacy, and that, absent a reasonable expectation of privacy, a person is not prohibited from aurally recording or otherwise using a device to intercept a speaker's oral communication.

This bill redefines "oral communication" as one uttered by a person who has a reasonable expectation the communication is private or who is exhibiting an

