

invited either to join and participate therein or to conduct like observances in their respective localities.

History: 1973 c. 333; 1977 c. 187 s. 96; Stats. 1977 s. 757.173; 1983 a. 192 s. 258; Stats. 1983 s. 895.22; 1987 a. 27; 2005 a. 155 s. 34; Stats. 2005 s. 995.22.

995.225 Fire Prevention Week. (1) The week in October during which October 8 falls is designated Fire Prevention Week and the Saturday of the preceding week is designated Wisconsin Firefighters Memorial Day. In conjunction with the week, appropriate observances, ceremonies, exercises, and activities may be held under state auspices to do all of the following:

(a) Commemorate 2 of the most devastating fires in U.S. history, both of which started on October 8, 1871, the Peshtigo fire and the Chicago fire.

(b) Study fire safety tips to help avoid home fires.

(c) Recognize that well-trained, dedicated, and well-equipped fire departments are important to all of the residents of this state.

(d) Recognize that thousands of state firefighters, both full-time and volunteer, dedicate themselves to protecting lives and property.

(e) Express the gratitude of the residents of this state for the valuable contributions that firefighters have made to the other residents of this state.

(f) Honor those contributions and memorialize the firefighters of this state who have died while performing their duties.

(2) The chief officials of local governments and the people of the state are invited either to join and participate in the observances, ceremonies, exercises, and activities under sub. (1) that may be held under state auspices or to conduct similar observances in their respective localities.

History: 2003 a. 56, 320; 2005 a. 155 s. 35; Stats. 2005 s. 995.225.

995.23 Indian Rights Day. July 4 is designated as "Indian Rights Day," and in conjunction with the celebration of Independence Day, appropriate exercises or celebrations may be held in commemoration of the granting by congress of home rule and a bill of rights to the American Indians. When July 4 falls on Sunday, exercises or celebrations of Indian Rights Day may be held on either the third or the fifth.

History: 1977 c. 187 s. 96; Stats. 1977 s. 757.175; 1983 a. 192 s. 259; Stats. 1983 s. 895.23; 2005 a. 155 s. 36; Stats. 2005 s. 995.23.

995.50 Right of privacy. (1) The right of privacy is recognized in this state. One whose privacy is unreasonably invaded is entitled to the following relief:

(a) Equitable relief to prevent and restrain such invasion, excluding prior restraint against constitutionally protected communication privately and through the public media;

(b) Compensatory damages based either on plaintiff's loss or defendant's unjust enrichment; and

(c) A reasonable amount for attorney fees.

(2) In this section, "invasion of privacy" means any of the following:

(a) Intrusion upon the privacy of another of a nature highly offensive to a reasonable person, in a place that a reasonable person would consider private or in a manner which is actionable for trespass.

(b) The use, for advertising purposes or for purposes of trade, of the name, portrait or picture of any living person, without having first obtained the written consent of the person or, if the person is a minor, of his or her parent or guardian.

(c) Publicity given to a matter concerning the private life of another, of a kind highly offensive to a reasonable person, if the defendant has acted either unreasonably or recklessly as to whether there was a legitimate public interest in the matter involved, or with actual knowledge that none existed. It is not an invasion of privacy to communicate any information available to the public as a matter of public record.

(d) Conduct that is prohibited under s. 942.09, regardless of whether there has been a criminal action related to the conduct, and regardless of the outcome of the criminal action, if there has been a criminal action related to the conduct.

(3) The right of privacy recognized in this section shall be interpreted in accordance with the developing common law of privacy, including defenses of absolute and qualified privilege, with due regard for maintaining freedom of communication, privately and through the public media.

(4) Compensatory damages are not limited to damages for pecuniary loss, but shall not be presumed in the absence of proof.

(6) (a) If judgment is entered in favor of the defendant in an action for invasion of privacy, the court shall determine if the action was frivolous. If the court determines that the action was frivolous, it shall award the defendant reasonable fees and costs relating to the defense of the action.

(b) In order to find an action for invasion of privacy to be frivolous under par. (a), the court must find either of the following:

1. The action was commenced in bad faith or for harassment purposes.

2. The action was devoid of arguable basis in law or equity.

(7) No action for invasion of privacy may be maintained under this section if the claim is based on an act which is permissible under ss. 196.63 or 968.27 to 968.37.

History: 1977 c. 176; 1987 a. 399; 1991 a. 294; 2001 a. 33; 2005 a. 155 s. 51; Stats. 2005 s. 995.50.

Commercial misappropriation of a person's name is prohibited by Wisconsin common law. *Hirsch v. S.C. Johnson & Son, Inc.* 90 Wis. 2d 379, 280 N.W.2d 129 (1979).

Oral communication among numerous employees and jail inmates is sufficient to constitute publicity under sub. (2) (c). *Hillman v. Columbia County*, 164 Wis. 2d 376, 474 N.W.2d 913 (Ct. App. 1991).

Disclosure of private information to one person or to a small group does not, as a matter of law in all cases, fail to satisfy the publicity element of an invasion of privacy claim. Whether a disclosure satisfies the publicity element of an invasion of privacy claim depends upon the particular facts of the case and the nature of plaintiff's relationship to the audience who received the information. *Pachowitz v. LeDoux*, 2003 WI App 120, 265 Wis. 2d 631, 666 N.W.2d 88, 02-2100.

An action for invasion of privacy requires: 1) a public disclosure of facts regarding the plaintiff; 2) the facts disclosed were private; 3) the private matter is one that would be highly offensive to a reasonable person of ordinary sensibilities; and 4) the party disclosing the facts acted either unreasonably or recklessly as to whether there was a legitimate public interest in the matter or with actual knowledge that none existed. In order to find public disclosure, the matter must be regarded as substantially certain to become one of public knowledge. *Olson v. Red Cedar Clinic*, 2004 WI App 102, 273 Wis. 2d 728, 681 N.W.2d 305, 03-2198.

The right to privacy law does not affect the duties of custodians of public records under s. 19.21. 68 Atty. Gen. 68.

Surveillance of a school district employee from public streets and highways by the employer school district's agents to determine whether the employee was in violation of the district's residency policy did not violate this section. *Munson v. Milwaukee Board of School Directors*, 969 F.2d 266 (1992).

A person's religious affiliation, standing alone, is not so private that publication would offend a reasonable person and constitute an invasion of privacy under sub. (2) (c). *Briggs & Stratton Corp. v. National Catholic Reporter Publishing Co.* 978 F. Supp 1195 (1997).

The exclusivity provision of the Workers Compensation Act does not bar a claim for invasion of privacy under s. 895.50. *Marino v. Arandell Corp.* 1 F. Supp. 2d 947 (1998).

The absence of false light from the Wisconsin privacy statute. 66 MLR 99 (1982).

The tort of misappropriation of name or likeness under Wisconsin's new privacy law. *Endejan*, 1978 WLR 1029.

The Case for Reexamining Privacy Law in Wisconsin: Why Wisconsin Courts Should Adopt the Interpretation of the Tort of Intrusion upon Seclusion of *Fisher v. Mount Olive Lutheran Church*. Infield-Harm. 2004 WLR 1781.

The Scope of Wisconsin's Privacy Statute. *Backer*. Wis. Law. Sept. 2003.
Employer Liability for Employment References. *Mac Kelly*. Wis. Law. May 2008.

995.67 Domestic abuse services; prohibited disclosures. (1) In this section:

(a) "Domestic abuse" has the meaning given in s. 49.165 (1) (a).

(b) "Domestic abuse services organization" means a nonprofit organization or a public agency that provides any of the following services for victims of domestic abuse:

1. Shelter facilities or private home shelter care.
2. Advocacy and counseling.
3. A 24-hour telephone service.