



The purpose of the perfecting amendment is to add clarity and ensure that subsection (a) is clearly understood to be applicable to any non-federal telephonic communication under Connecticut's jurisdiction and is clearly differentiated from the exception set out in subsection (b)(9)(B), which applies to any extra jurisdictional telephonic communication where any far-end party is acting pursuant to any other jurisdiction other than Connecticut or federal.

The example would be a conference call with the recording party in Connecticut, another non-federal party in Connecticut, a federal party regardless of location, and any party acting pursuant to any other jurisdiction other than Connecticut or federal.

General Assembly

**Raised Bill No. 1149**

January Session, 2011

LCO No. 4247

\*04247 \_\_\_\_\_ JUD\*

Referred to Committee on Judiciary

Introduced by:

(JUD) **Perfecting Amendment: Subsection (a) first line: strike the word "a" after the word "in" and before the word "telephonic" and insert in lieu thereof the words "an intrastate".**

**AN ACT CONCERNING THE RECORDING OF TELEPHONIC COMMUNICATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 52-570d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(a) No [person] party, active or otherwise, in a telephonic communication shall, [use any instrument, device or equipment to] by any means, record [an oral private telephonic communication unless the use of such instrument, device or equipment (1) is] or cause to be recorded such communication unless it: (1) Is preceded by documented and reciprocal consent of [all parties to the communication and such] every other party prior [consent either is obtained in writing or is part of, and obtained at] to or as part of the start of [, the] any recording, or (2) is preceded by verbal notification which is recorded at the beginning and is part of the communication [by the recording party] and if any party provides verbal notification, any party may record provided verbal notification or another is recorded, or (3) is accompanied by an automatic tone warning [device which automatically] that produces a distinct signal that is repeated at intervals of approximately fifteen seconds during the communication while [such instrument, device or equipment is in use] recording and if any party provides the automatic tone warning, any party may record.

(b) [The] Unless otherwise specified, the provisions of subsection (a) of this section shall not apply to:

(1) Any federal, state or local criminal law enforcement official who in the [lawful] performance of his duties records telephonic communications;

(2) Any officer, employee or agent of a public or private safety agency, as defined in section 28-25, who in the [lawful] performance of his duties records telephonic communications of an emergency nature;

(3) Any person who, as the recipient of a telephonic communication which conveys threats of extortion, bodily harm or other unlawful requests or demands, records such telephonic communication;

(4) Any person who, as the recipient of a telephonic communication which occurs repeatedly or at an extremely inconvenient hour, records such telephonic communication;

(5) Any officer, employee or agent of any communication common carrier who in the [lawful] performance of his duties records telephonic communications or provides facilities to an investigative officer or criminal law enforcement official authorized pursuant to chapter 959a to intercept a wire communication;

(6) Any officer, employee or agent of a Federal Communications Commission licensed broadcast station who records a telephonic communication solely for broadcast over the air;

(7) Any officer, employee or agent of the United States Secret Service who records telephonic communications which concern the safety and security of the President of the United States, members of his immediate family or the White House and its grounds; [and]

(8) Any officer, employee or agent of a Federal Communications Commission broadcast licensee who records a telephonic communication as part of a broadcast network or cooperative programming effort solely for broadcast over the air by a licensed broadcast station; [.]

(9) Any party who records a telephonic communication, provided:

(A) Any party under this state's jurisdiction has complied with subsection (a) of this section and every other party is operating under the authority of or under contract with the United States regardless of location, or

(B) Any party under this state's jurisdiction has complied with subsection (a) of this section and has given consideration to laws, if any, that apply within any given termination point's jurisdiction and every other party is not under this state's jurisdiction;

(10) Any party who records a telephonic communication, provided the intent of the recording is to memorialize evidence of a crime before, during or after the fact and the unaltered and undisclosed recording must be submitted to law enforcement within a reasonable amount of time; and

(11) Any recording that results from any automatic or automated system that may be reasonably categorized as a voice mail, call center, phone answering or similar system and where the calling party was acting under informed consent in the telephonic communication.

(c) For the purposes of this section:

(1) "Party" means any officer, agent or employee of this state or any political subdivision thereof, an individual acting for or on behalf of the United States government, and any individual, partnership, association, joint stock company, trust, limited liability company, corporation or other legal entity;

(2) "Consent" means any instance of an express, implied or informed agreement, approval or permission that is directly linked to a specific recorded telephonic communication; and

(3) "Jurisdiction" means any entity denoted as an authority of or under contract with the United States government or any of the states of the United States.

(d) Regardless of jurisdiction, where consent by all parties to any given telephonic communication is required, consent shall be considered obtained when any party has given verbal notification to every other party and such notification is recorded at the beginning and is part of the recorded communication.

(e) It shall be unlawful for any person or persons to record any telephonic communication if such recording is for the purpose of committing any criminal or tortious act.

[(c)] (f) Any person aggrieved by a violation of subsection (a) or (e) of this section may bring a civil action in the Superior Court to recover damages, together with costs and a reasonable attorney's fee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2011	52-570d

**Statement of Purpose:**

To amend provisions concerning the illegal recording of telephonic communications.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

