

Oral Testimony Senate Bill 1149 (Raised): L Jezouit (Written is on file.)

Chairs Senator Coleman and Representative Fox, Vice Chairs, Ranking Members and Members of the Judiciary Committee,

Thank you for this opportunity to testify on behalf of Senate Bill 1149 CONCERNING THE RECORDING OF TELEPHONIC COMMUNICATIONS that would enact a set of no cost, non-controversial, and apolitical amendments and additions to Section 52-570d of the General Statutes of Connecticut.

My name is Lawrence Jezouit, a constituent of Representative Robles and Senator Fonfara. They have helped guide me through this process and have worked on my behalf to have this bill passed by the General Assembly. I wish to give special mention to Vice Chair Representative Holder-Winfield who I believe was instrumental in having Senate Bill 1149 raised.

I have submitted written testimony that offers a detailed account of the rationale and research that I have completed to support the specific language that has been set out in Senate Bill 1149.

I recognize and praise the high number of work hours during every day that each Member of this committee offers to this state on behalf of its residents. However, I would be remiss if I did not ask each Member to reserve time to review my written testimony in order to understand the material and ultimately, with clear intent, vote to achieve a joint favorable or joint favorable substitute report for Senate Bill 1149.

A fair reading of some of the elements of the existing section reveals the need to modernize the section's language based on the principles of right to privacy, efficiency of operation, and an equal opportunity to record calls vis-à-vis the laws of other states and the U. S. Code. I will highlight a few proposed changes in relation to current law and how each could affect Connecticut residents.

Most of us are familiar with the operation and use of telephones that provide message answering. It is a common event that a caller routinely hears a verbal notification to the effect: "Please leave a message after the tone." It is a little known fact that those recorded incoming messages are unlawful because the language of the existing subsection 52-570d(a)(2), requires that the "verbal notification [be] recorded at the beginning and [as] part of the communication by the recording party." This is not the case with the modern day phone answering systems. One could perform a test and verify that the recorded playback does not contain the required verbal notification. Such a test was completed between Senator Fonfara's office and me. Please note that the existing language is more than twenty years old and was sourced from the same language that was adopted by the Federal Communication Commission in a series of regulations between 1967 and 1987. To reiterate, technology and the ubiquitous use of answering systems has outpaced the utility of the existing language. I offer a change to current law that will exempt such call answering systems, which will put many of us, including this legislature's phone answering system, on the correct side of the law.

In general, current law does not provide an exception for the non-disclosed recording of evidence of a crime either before, during or after the fact. Current law, section 52-184a, deems such a recording as inadmissible in a Connecticut court of law. I offer a change to section 52-570d that would make legal and admissible a recording of a call that would potentially be evidence of a crime. This change would be complementary to this Committee's House Bill 6367 (Raised) AN ACT CONCERNING THE FAILURE OF A WITNESS TO REPORT A SERIOUS CRIME.

Most state and local officials prescribe to the principle of transparency in government. Subsection 2511(2)(d) of the U.S. Code enacts that principle by permitting a party in a telephonic communication to record it. A party in any one of approximately 39 states may, at their discretion, record a call with an entity of the federal government. I offer a change to the existing section 52-570d that would promote transparency in government and would permit a Connecticut party an equal opportunity, at their discretion, to record a call with an entity of the federal government.

The existing language of paragraphs (1), (2), and (3) of subsection (a) of section 52-570d operate in an inefficient manner. My written testimony details those inefficiencies and presents changes that have been incorporated within Senate Bill 1149 that would eliminate them.

Even though Senate Bill 1149 as drafted is more than suitable for passage, I do request that at the committee meeting a perfecting amendment be considered and adopted as follows: Within Senate Bill 1149's first line of subsection (a) that one letter and one word be inserted so that it reads: "(a) No party, active or otherwise, in an intrastate telephonic communication shall ..."

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.

I have additional research material such as the legislative history for section 52-570d and/or a document that is a compilation of every state's laws on this subject. Three hard copies were submitted to the Judiciary Committee's office on February 24th. Additionally, all of the documents should be available in electronic format at the Judiciary Committee's office or they would be available in electronic format from me upon request.

I conclude by offering to attempt to answer any question that the committee may have and, I would like permission to submit to staff 45 copies of the perfecting amendment.

