

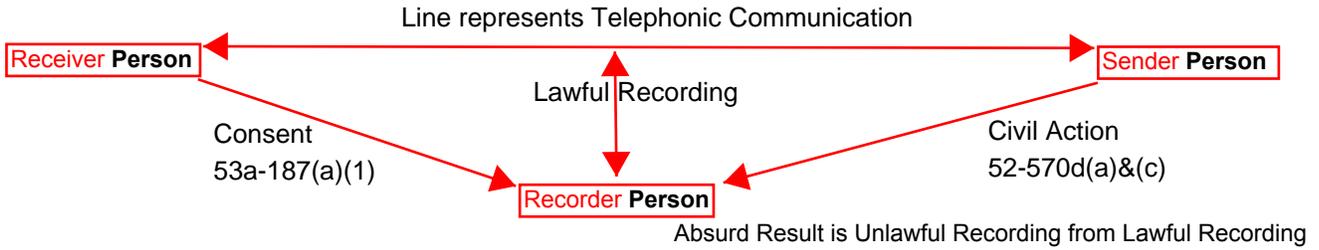
Analysis of Division of Criminal Justice's Testimony re HB5503

Author: L. Jezouit, Proponent (ljez@comcast.net or amend52-570d@comcast.net)

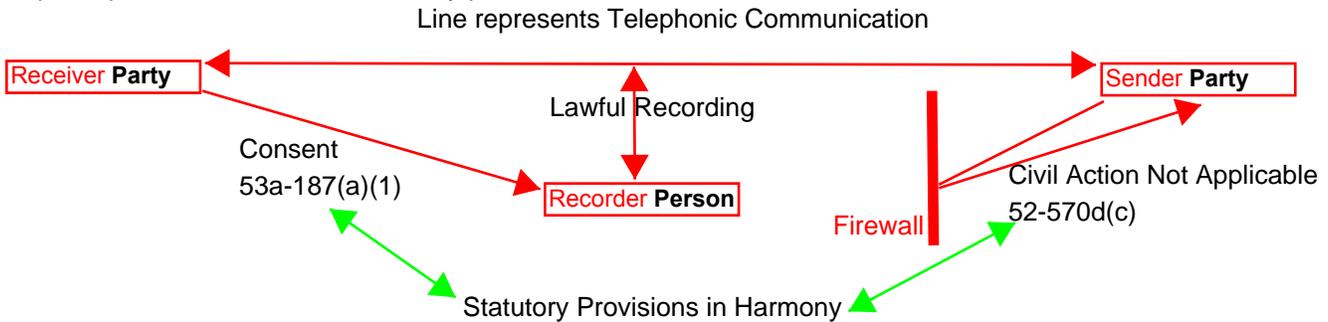
First Bullet • There is no need to change "person" to "party," which the bill defines. Connecticut General Statutes section 1-1 (k), "person" already applies to the listed non-human entities.

Substituting the term **"party"** for the term **"person"** in every instance is "needed" to effect a **firewall** between statutory provisions and create to harmony. §§53a-187(a)(1) and §§52-570d

Graphic operation of existing statutory provisions.



Graphic operation of amended statutory provisions.



Existing - Sec. 53a-187. Definitions. Applicability. (a) The following definitions are applicable to sections 53a-188 and 53a-189: (1) **"Wiretapping"** means the intentional overhearing or recording of a telephonic or telegraphic communication or a communication made by cellular radio telephone **by a person other than a sender or receiver thereof**, without the consent of either the sender or receiver, by means of any instrument, device or equipment.

Existing - Sec. 52-570d. Action for illegal recording of private telephonic communications. (a) No **person** shall use any instrument, device or equipment to record an oral private telephonic communication unless the use of such instrument, device or equipment (1) is preceded by consent of all parties to the communication and such prior consent either is obtained in writing or is part of, and obtained at the start of, the recording, or (2) is preceded by verbal notification which is recorded at the beginning and is part of the communication by the recording party, or (3) is accompanied by an automatic tone warning device which automatically 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.

2012 Proposed - (b) No **party**, active or otherwise, in an intrastate telephonic communication shall, by any means, record or cause to be recorded such telephonic communication unless it: (1) Is preceded by documented and reciprocal consent of every other party prior to or as part of the start of any recording, or (2) is preceded by verbal notification which is recorded at the beginning and is part of such telephonic communication and if any party provides verbal notification, any other party may record provided such verbal notification or another is recorded at the beginning of that party's recording, or (3) is accompanied by an automatic tone warning that produces a distinct signal that is repeated at intervals of approximately fifteen seconds during such telephonic communication while recording and if any party provides the automatic tone warning, any other party may record.

2011 Proposed - Some Ambiguity - (c)(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;

2012 Proposed - Not Ambiguous - (a) The following definitions are applicable to this section: ... (3) "Party" means any of the following: any officer, agent or employee of this state or any political subdivision thereof, an employee of or any individual acting in an official capacity on behalf of the United States, and any individual, partnership, association, joint stock company, trust, limited liability company, corporation or other legal entity that was: (A) a caller or a sender, (B) called or a receiver, or (C) a participant, active or otherwise, in any given telephonic communication but does not include a person other than a sender or receiver as set out in 53a-187(a)(1).