
OLR Bill Analysis

sHB 5503

AN ACT CONCERNING THE RECORDING OF TELEPHONIC COMMUNICATIONS.

SUMMARY:

This bill generally updates telephone recording laws, alters some of the conditions for obtaining parties' consent to record conversations, and adds new exceptions to the requirement to obtain consent before recording. By law, those aggrieved by a violation may sue in Superior Court for damages, costs, and a reasonable attorney's fee.

The bill also makes it unlawful for anyone to record a telephone call if the recording is for the purpose of committing any criminal or tortuous act.

The bill also makes minor and technical changes.

EFFECTIVE DATE: July 1, 2012

RECORDING RESTRICTIONS

With certain exceptions, current law prohibits anyone from recording a telephone conversation without the knowledge of all parties to the conversation. Knowledge of all parties can be established in three ways: (1) prior consent obtained in writing or at the start of the recording, (2) by orally announcing (and recording the announcement) to all parties at the beginning that the conversation is being recorded, or (3) by an automatic and distinct signal repeated every 15 seconds while recording equipment is in use.

The bill permits any (1) sort of documented consent, rather than only written and (2) party to record the communication if that party or any other party provides the verbal notification or the distinct signal.

The bill defines consent as an express, implied, or informed

agreement, approval, or permission directly linked to a specific recorded telephone communication. Under the bill, the required consent is obtained when any party gives verbal notice to all the other parties which is recorded at the beginning and becomes part of the recorded conversation.

The bill specifies that a party who is not active on the call can record the conversation.

The bill defines a "party" as an officer, agent, or employee of the state or any political subdivision; 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.

EXCEPTIONS

The bill adds to those who are exempt from the law's notification requirements any party:

1. under this state's jurisdiction who has complied with the requirements above when every other party is operating under the authority of, or under contract with, the United States government, regardless of location;
2. under this state's jurisdiction, who has complied with the requirements listed above and has given consideration to any other laws that apply within any given termination point's jurisdiction, and all other parties are not under this state's jurisdiction; and
3. whose purpose is to memorialize evidence of a crime before, during, or after the fact and submits the unaltered and undisclosed recording to law enforcement within a reasonable time.

Under the bill, "jurisdiction" means any state or an entity denoted as an authority of or under contract with the U.S. government.

Under the bill, it is permissible to record messages on voice mail or a call center, phone answering, or similar systems where the calling party is acting under informed consent.

Existing law allows the following to record telephone conversations without establishing knowledge of all parties by the means described above:

1. law enforcement, public safety, and private emergency personnel in the lawful performance of their duties (including police, "911" calls, ambulance providers, the Secret Service while protecting the President, and telephone workers legally assisting the police.) (The bill removes the term "lawful" which has no legal effect since the performance of their duties is presumed to be lawful);
2. anyone who receives blackmail calls or unlawful requests or demands and anyone who receives calls that occur repeatedly or at an extremely inconvenient hour; and
3. Federal Communications Commission-licensed radio personnel recording for rebroadcast or programming

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (04/02/2012)