



General Assembly

February Session, 2014

Raised Bill No. 487

LCO No. 2745



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING THE RECORDING OF TELEPHONIC COMMUNICATIONS.

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

1 Section 1. Section 52-570d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 [(a) No person shall use any instrument, device or equipment to
4 record an oral private telephonic communication unless the use of
5 such instrument, device or equipment (1) is preceded by consent of all
6 parties to the communication and such prior consent either is obtained
7 in writing or is part of, and obtained at the start of, the recording, or (2)
8 is preceded by verbal notification which is recorded at the beginning
9 and is part of the communication by the recording party, or (3) is
10 accompanied by an automatic tone warning device which
11 automatically produces a distinct signal that is repeated at intervals of
12 approximately fifteen seconds during the communication while such
13 instrument, device or equipment is in use.

14 (b) The provisions of subsection (a) of this section shall not apply to:

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

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

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

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

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

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

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

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

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

47 (a) As used in this section:

48 (1) "Consent" means any instance of an express, implied or informed
49 agreement, approval or permission that is directly linked to a specific
50 recorded telephonic communication and in every case: (A) When a
51 party gives consent, it is to another, never to oneself, (B) when consent
52 is received, it is deemed to be reciprocal;

53 (2) "Party" includes, but is not limited to, any of those enumerated in
54 subsection (k) of section 1-1 or subdivision (1) of section 53a-3 who is
55 or was: (A) A caller or a sender, (B) called or a receiver, or (C) a
56 participant in any given telephonic communication. "Party" does not
57 include any person other than a sender or receiver as set out in
58 subdivision (1) of subsection (a) of section 53a-187; and

59 (3) "Telephonic communication" means the transfer of the human
60 voice, real or synthesized, in whole or in any part by any means
61 through facilities used for the transmission of communications
62 furnished or operated by any person engaged in providing or
63 operating such facilities including, but not limited to, common carriers,
64 wide area telephone service providers, wireless communications
65 providers, personal communications services providers and voice over
66 Internet protocol providers for the transmission of intrastate, interstate,
67 or foreign message toll telephone service and where the point of origin
68 is deemed to be and includes the device used by a sender thereof and
69 where the point of reception is deemed to be and includes the device
70 used by a receiver thereof.

71 (b) No party in an intrastate telephonic communication shall, by any
72 means, record or cause to be recorded such telephonic communication
73 unless:

74 (1) Consent is received from every other party and such consent is
75 either documented: (A) Before the fact, or (B) at the beginning and as
76 part of the recording; or

77 (2) It contains an unambiguous verbal notification at the beginning
78 and as part of the recording; or

79 (3) It is accompanied by an automatic tone warning that produces a
80 distinct signal that is repeated at intervals of approximately fifteen
81 seconds during such telephonic communication.

82 (c) While a telephonic communication is being recorded and any
83 intrastate party joins during or after the beginning, the recording party
84 must then ensure compliance with subdivision (1), (2) or (3) of
85 subsection (b) with regard to the joined party.

86 (d) Unless otherwise specified in this subsection, the provisions of
87 subsection (b) of this section shall not apply to:

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

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

93 (3) Any officer, employee or agent of any telephonic
94 communications provider who in the performance of his duties
95 records telephonic communications or provides facilities to an
96 investigative officer or criminal law enforcement official authorized
97 pursuant to chapter 959a to intercept a wire communication;

98 (4) Any party who records a telephonic communication, provided
99 the intent of the recording is to memorialize evidence of a crime before,
100 during or after the fact and the unaltered and undisclosed recording
101 must have been submitted to law enforcement within a reasonable
102 amount of time;

103 (5) Any party who records a telephonic communication, provided
104 such party under this state's jurisdiction has complied with subsection
105 (b) of this section, and every other party is acting as an agent of the
106 United States pursuant to 18 USC 2510 et seq., regardless of location;

107 (6) Any party who, by consent, caused and the person who recorded
108 such telephonic communication pursuant to subdivision (1) of
109 subsection (a) of section 53a-187; and

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

114 (e) Notwithstanding subsections (c) and (d) of this section, it shall be
115 unlawful for any party to a telephonic communication to record such
116 telephonic communication if such recording is for the purpose of
117 committing any criminal or tortious act of this state. Such recording is
118 admissible as evidence in any court of this state without regard to
119 section 52-184a.

120 (f) Any party in a telephonic communication who is outside of this
121 state and who records any party within this state is expected to comply
122 with this section.

123 (g) Any party aggrieved by a violation of this section may bring a
124 civil action in the Superior Court to recover damages, nominal or
125 otherwise, together with costs and a reasonable attorney's fee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	52-570d

Statement of Purpose:

To make revisions to statutory 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.]