



General Assembly
February Session, 2012

Raised Bill No. ???

LCO No. ???

0???_____JUD

Referred to Committee on Judiciary

Introduced by:

(JUD)

AN ACT MODERNIZING 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 Section 52-570d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) The following definitions are applicable to this section:

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

(2) "Jurisdiction" means the United States Government, which includes any entity denoted as an authority of or under contract with the United States government, or any one of the several states of the United States.

(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).

(4) "Telephonic communication" means the transfer of the human voice, real or synthesized, in whole or in any part by any means through facilities used for the

transmission of communications furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications and where the point of origin is deemed to be and includes the device used by a sender thereof and where the point of reception is deemed to be and includes the device used by a receiver thereof.

(5) "Unlawful" means not specifically authorized by law of this State.

(b) [(a)] No [person] party, active or otherwise, in an intrastate 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 telephonic 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] such telephonic communication [by the recording party] 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 [device which automatically] that produces a distinct signal that is repeated at intervals of approximately fifteen seconds during [the] such telephonic communication while [such instrument, device or equipment is in use] recording and if any party provides the automatic tone warning, any other party may record.

(c) [(b)] Unless otherwise specified, t[he] provisions of subsection [(a)] (b) 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 p[erson]arty 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 p[erson]arty 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;]

(6) (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.]

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

(A) Such party under this state's jurisdiction has complied with subsection (b) 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) Such party under this state's jurisdiction has complied with subsection (b) of this section and had 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;

(8) 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;

(9) Any party who, by consent, caused and the person who recorded such telephonic communication pursuant to 53a-187(a)(1); and

(10) Any recording that is the result from any automatic or automated system that may be reasonably categorized as a voice mail, call center, phone answering or similar system, or resulting from a public announcement.

(d) Where consent by every recorded party is required for any given telephonic

communication regardless of jurisdiction, consent from every recorded party shall be considered obtained when any recording party has given verbal notification and such verbal notification is recorded at the beginning and is part of such telephonic communication or another verbal notification is recorded at the beginning of that party's recording during such telephonic communication.

(e) Notwithstanding subsections (b) and (c) of this section, it shall be unlawful for any party to a telephonic communication to record such telephonic communication if such recording is for the purpose of committing any criminal or tortious act.

(f) [(c)] Any p[erson]arty aggrieved by a violation of [subsection (a) 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	October 1, 2013	52-570d

Statement of Purpose:

To amend and modernize 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.]