

HB 2459 A -A3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

Prepared By: Channa Newell, Counsel

Meeting Dates: 5/10, 5/24

WHAT THE MEASURE DOES:

Includes communication through a video conferencing program within definition of "conversation" for purposes of prohibitions on recording conversations without specifically informing participants. Extends exemption allowing recording of communications when oral communications are part of a public or semi-public meeting, regularly scheduled class or educational activity, or private meeting or conference, if all others involved knew or reasonably should have known that the recording was being made, to include those occurrences happening through a video conferencing program. Specifies that bar on recording conversations without informing all participants of conversation of recording does not apply when a person intends to capture alleged unlawful activity through use of video conference recording. Defines video conferencing program as software or application for computer or cellular phone that allows two or more persons to communicate via simultaneous video transmission.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A3 Clarifies exception to prohibition on recording conversations occurring through a video conferencing program. Specifies that prohibition does not apply to a person who, with the intent to capture alleged unlawful activity, if the person is a participant in the conversation or at least one participant in the conversation consents to the recording and the person is a law enforcement officer or acting in coordination with a law enforcement officer; the person is acting in coordination with an attorney or enforcement or regulatory entity; or the person reasonably believes the recording may be used as evidence in a judicial or administrative proceeding.

BACKGROUND:

Oregon law generally prohibits a person from secretly recording the conversations of others, with numerous exceptions to the prohibition. The prohibition covers recording of conversations, radio communication, and telecommunication. Conversation is oral communication between two or more persons that is not telecommunication (writing, signs, signals, pictures and sounds sent with aid of wire or cable) or radio communication (writing, signs, signals, pictures, and sounds sent via radio or other wireless methods). ORS 165.540(1)(c) prohibits obtaining or attempting to obtain whole or part of a conversation unless all of the participants in the conversation are specifically informed that the conversation is being recorded.

House Bill 2459 A includes video conferences within the definition of "conversation" and extends the exception for the prohibition on recording oral communications that are part of public meetings, classes, or private meetings or conferences, that the participants knew were being recorded, to include communication occurring through a video conferencing program. The prohibition does not extend to capturing conversations through video conference recording showing alleged unlawful activity.

House Judiciary: 10-0

House Floor: 53-0-7

Minimal Fiscal Impact

No Revenue Impact

This summary has not been adopted or officially endorsed by action of the committee.

PRELIMINARY