

HB 2459 B STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

**Senate Committee On Judiciary and Ballot Measure 110
Implementation****Action Date:** 05/25/21**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 4-3-0-0**Yeas:** 4 - Dembrow, Gelser, Manning Jr, Prozanski**Nays:** 3 - Heard, Linthicum, Thatcher**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Channa Newell, Counsel**Meeting Dates:** 5/10, 5/25**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. Specifies that prohibition does not apply if the person intends to capture alleged unlawful activity and 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; 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. 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. 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:

- Current laws on recording in-person conversations and telephone conversations
- Goal to modernize recording statutes
- Protecting privacy of individuals in video conferences
- Confusion in construction of statutes

EFFECT OF AMENDMENT:

Clarifies exception to prohibition on recording conversations occurring through a video conferencing program.

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 B 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

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video conferencing program. The measure exempts from the prohibition conversations recorded through video conferencing that show alleged unlawful activity and the person making the recording is a participant in the conversation or consents to the recording and is either a law enforcement officer or acting in coordination with a law enforcement officer, attorney, enforcement or regulatory entity, or the person reasonably believes the recording may be used as evidence in a judicial or administrative proceeding.