

HB 2459: Privacy of Videoconferences

The past twelve months have brought an explosion in the use of video conferencing for work, school, personal, and other uses. The technology will likely remain heavily used after it is safe to resume in-person activities.

This bill will clarify that recording of private conversations that take place via video transmission will be treated the same way as the recording of private face-to-face conversations are treated under current law.

Millions of people every day meet with other people virtually, using technology, not literally in person. The technology is the substitute for in person.

Oregon appellate court decisions state that the legislature's concern in adopting the original statute was to protect participants from having their face-to-face conversations recorded without being informed. That is the same concern being addressed with these amendments to the statute.

SO A LITTLE CONTEXT --

As our law stands now, Oregon statute differentiates between in-person conversations and all others – telephone, internet, and so forth. If in-person, everyone has to be informed in advance before recording can start – with some exceptions. Everything else is what's called “one-party consent” for telephonic conversations; the statute was old and written for telephones.

[HERE'S THE PROBLEM]

I believe that reasonable people assume a private meeting is private, and wouldn't expect to find a recording shared with people who were not in the meeting. When I have explained that videoconferences are not actually protected as a privacy issue, people are surprised, and think it's basically wrong.

For example, maybe it's a few people in a business meeting, discussing a business decision about a potential new product line, and one of the participants takes all or part of the recording to a potential competitor. Or maybe a member of a book club mentions family health or financial problems, and a recording is shared, with bad outcomes.

It's time to modernize our law. The law is old and it's the legislature's responsibility to update it with clarifying language to protect Oregonians' privacy with common sense, and not leave the issue to the courts to try to apply an outdated law to situations not envisioned decades ago.

SO THE SOLUTION:

This bill aims to reaffirm that a person has a right to know, and choose whether to be recorded. Anyone intending to record a private conversation must tell you if they are recording, and you can choose not to participate, or to “leave” the conversation. Knowledge of the fact that the conversation is being recorded ensures that you can participate in a manner that you control, understanding the permanent nature of recorded materials.

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This bill amends current statute regarding “conversation” to include a communication occurring through a video conference program. It treats a videoconference the same as an in-person conversation. The same exceptions already in current law will still apply – like unconcealed recording devices at public meetings, or sporting events, for example. So it does not interfere with existing public meetings law, and does not apply to law enforcement.

In practical terms, the way it would work is someone would announce they are recording the meeting, and if an attendee is uncomfortable with that, they could “leave” the meeting, or might stay and choose their words and gestures with care.

I’d also like to point out that we worked with attorneys and representatives of law enforcement and crime victims – such as stalking and harassment – and provided an amendment that the committee adopted to add an exception for recording unlawful activity.

CLOSING:

We’re in a new world; we use videoconferences as a substitute for face-to-face conversations. I’ve worked carefully with legislative counsel and department of justice to understand current law, stay out of the way of law enforcement, and not interfere with public meetings law. This bill will modernize our law and protect the privacy of Oregonians who expect it.

Thank you.