

**HB 2459 A STAFF MEASURE SUMMARY****Carrier:** Rep. Nathanson**House Committee On Judiciary****Action Date:** 04/01/21**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 10-0-0-0**Yeas:** 10 - Bynum, Dexter, Helm, Kropf, Lewis, Morgan, Noble, Power, Wallan, Wilde**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Channa Newell, Counsel**Meeting Dates:** 2/17, 3/10, 3/25, 4/1**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:**

- Use of video conferencing for communication
- Size of devices capable of recording conversations
- Existing exemptions for recording conversations

**EFFECT OF AMENDMENT:**

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.

**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. However, oral communications may be recorded with an unconcealed recording device in public meetings, classes, or private meetings or conferences that all participants knew or reasonably should have known was 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.