

Recording Telephone Conversations

Federal and state statutes govern recordings. Unlawful use can give rise not only to a civil suit by the injured party, but also to criminal prosecution.

The information below is general information concerning electronic recording of telephone conversations. Appia is not providing legal advice; if you have questions, you should contact an attorney for advice.

Federal Statute

There are two exceptions:

- Consent of at least one party to the call
- Ordinary course of business exception.

Business telephone exception: This provision generally permits businesses to monitor the conversations of their employees, including personal conversations, during the ordinary course of business.

The Federal Communications Commission requires at least one of the following measures be taken when recording an interstate phone call:

- Both parties consent to the recording, or
- The recording party must give verbal notification before recording, or
- There must be a regular electronic beep tone during recording.

State Statutes

States Requiring Single Party Notification

- Alabama
- Alaska
- Arizona
- Arkansas
- Colorado
- District of Columbia
- Georgia
- Hawaii
- Idaho
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Minnesota
- Mississippi
- Missouri
- Nebraska
- New Jersey
- New Mexico
- New York
- North Carolina
- North Dakota
- Ohio

- Oklahoma
- Oregon
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Vermont
- Virginia
- West Virginia
- Wisconsin
- Wyoming

States Requiring Two (or Multi-) Party Notification

- California
- Connecticut
- Delaware
- Florida
- Maryland
- Massachusetts
- Michigan
- Montana
- Nevada
- New Hampshire
- Pennsylvania
- Washington

Recording Telephone Calls with Parties in Different Jurisdictions

Federal law may apply when the conversation is between parties who are in different states, although it is unsettled whether a court will hold in a given case that federal law preempts state law, but either state may choose to enforce its own laws. Therefore, it is better to err on the side of caution when recording an interstate telephone call.