

ASSEMBLY BILL

No. 925

Introduced by Assembly Member Low

February 26, 2015

An act to amend Section 632 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as introduced, Low. Confidential conversations: eavesdropping.

Existing law makes it a crime to intentionally and without consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrop upon or record the confidential communication, whether the communication is carried on among the parties in the presence of one another or by means of a telegraph, telephone, or other device, except a radio. Existing law also makes evidence obtained as a result of eavesdropping upon or recording a confidential communication inadmissible in any judicial, administrative, legislative, or other proceeding.

This bill would make nonsubstantive, technical changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 632 of the Penal Code is amended to
2 read:
3 632. (a) ~~Every~~(1) A person who, intentionally and without
4 the consent of all parties to a confidential communication, by

1 means of any electronic amplifying or recording device, eavesdrops
 2 upon or records the confidential communication, whether the
 3 communication is carried on among the parties in the presence of
 4 one another or by means of a telegraph, telephone, or other device,
 5 except a radio, shall be punished by a fine not exceeding two
 6 thousand five hundred dollars (\$2,500), or imprisonment in ~~the~~
 7 county jail not exceeding one year, or in the state prison, or by
 8 both that fine and imprisonment. ~~If~~

9 (2) *If the person has previously been convicted of a violation*
 10 *of this section or Section 631, 632.5, 632.6, 632.7, or 636, the*
 11 *person shall be punished by a fine not exceeding ten thousand*
 12 *dollars (\$10,000), by imprisonment in the county jail not exceeding*
 13 *one year, or in the state prison, or by both that fine and*
 14 *imprisonment.*

15 (b) ~~The term “person” includes~~ *For purposes of this section*
 16 *“person” means an individual, business association, partnership,*
 17 *corporation, limited liability company, entity, or other legal entity,*
 18 *and an individual acting acting, or purporting to act act, for or on*
 19 *behalf of any a government or subdivision thereof, of a*
 20 *government, whether federal, state, or local, but local. “Person”*
 21 *excludes an individual known by all parties to a confidential*
 22 *communication to be overhearing or recording the communication.*

23 (c) ~~The term “confidential” includes~~ *For purposes of this section*
 24 *“Confidential communication” includes any means a*
 25 *communication carried on in circumstances as may reasonably*
 26 *indicate that any a party to the communication desires it the*
 27 *communication to be confined to the parties thereto, but*
 28 *participating parties. “Confidential communication” excludes a*
 29 *communication made in a public gathering or in any a legislative,*
 30 *judicial, executive executive, or administrative proceeding open*
 31 *to the public, or in any other circumstance in which the parties to*
 32 *the communication may reasonably expect that the communication*
 33 *may be overheard or recorded.*

34 (d) Except as proof in an action or prosecution for violation of
 35 this section, no evidence obtained as a result of eavesdropping
 36 upon or recording a confidential communication in violation of
 37 this section shall be admissible in any judicial, administrative,
 38 legislative, or other proceeding.

39 (e) This section does not apply (1) to any public utility engaged
 40 in the business of providing communications services and facilities,

1 or to the officers, employees or agents thereof, where the acts
2 otherwise prohibited by this section are for the purpose of
3 construction, maintenance, conduct or operation of the services
4 and facilities of the public utility, or (2) to the use of any
5 instrument, equipment, facility, or service furnished and used
6 pursuant to the tariffs of a public utility, or (3) to any telephonic
7 communication system used for communication exclusively within
8 a state, county, city and county, or city correctional facility.

9 (f) This section does not apply to the use of hearing aids and
10 similar devices, by ~~persons~~ *a person* afflicted with impaired
11 hearing, for the purpose of overcoming the impairment to permit
12 the hearing of sounds ordinarily audible to the human ear.

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