

1 SENATE BILL 261

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Bill B. O'Neill

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10 AN ACT

11 RELATING TO COMMUNICATIONS; PROHIBITING THE RECORDING OR  
12 TRANSMITTING OF ORAL COMMUNICATIONS WITHOUT THE CONSENT OF ALL  
13 PARTIES TO THE COMMUNICATIONS; MAKING EXCEPTIONS; PROVIDING A  
14 PENALTY.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. A new section of Chapter 30, Article 12 NMSA  
18 1978 is enacted to read:

19 "[NEW MATERIAL] UNLAWFUL RECORDING--PENALTY.--

20 A. Unlawful recording consists of electronic or  
21 digital recording or transmitting of any oral communication  
22 without the consent of all parties to the communication.

23 B. Whoever commits unlawful recording is guilty of  
24 a misdemeanor unless:

25 (1) the parties to the communication do not

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1 have a reasonable expectation that the communication is  
2 private;

3 (2) the recording or transmitting is conducted  
4 pursuant to a court order as provided in Sections 30-12-2  
5 through 30-12-11 NMSA 1978;

6 (3) the recording or transmitting is conducted  
7 by a law enforcement or public safety officer or employee in  
8 performance of the officer's or employee's duties and with the  
9 consent of at least one party to the communication; or

10 (4) the communication:

11 (a) is of an emergency nature, such as  
12 the reporting of a fire, medical emergency, crime or disaster;

13 (b) conveys threats of extortion,  
14 blackmail, bodily harm or other unlawful requests or demands;  
15 or

16 (c) occurs anonymously, repeatedly or at  
17 an extremely inconvenient hour."