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Wiretap Laws in the United States

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Companies frequently wish to record telephone conversations related to their operations, customers, or business transactions. In response, the U.S. Congress and most state legislatures have enacted statutes and regulations governing telephone call recording, often requiring the person recording the conversation to provide notice and obtain consent beforehand.

We have conducted a comprehensive review of wiretap laws across all 50 states, the District of Columbia, and Federal law (Electronic Communications Privacy Act). Based on this review, we have created a detailed chart that categorizes the states into all-party consent and one-party consent jurisdictions. This chart also includes information on penalties for violations, statutory exceptions and the minimal notice required in each state. You can view our Wiretap Laws chart here.

Consent Requirements

While most states mandate **one-party consent**, which can be given by the recorder if they are part of the conversation, some states require **all parties to consent** to the recording. These laws are typically embedded within state criminal statutes and codes, as call recording is often categorized under eavesdropping, wiretapping, or intercepted communication. As a result, state laws may not explicitly reference telephone call recording, necessitating legal interpretation to determine when and under what conditions recording is permissible by reviewing prohibited actions.

Jurisdictional Issues

When recording a call between parties located in different states, where one state requires one-party consent and the other requires two-party consent, the strictest standard generally applies. This means that obtaining consent from all parties is necessary to ensure compliance with the relevant laws. Therefore, it is prudent to comply with the strictest applicable laws or obtain consent from all parties to avoid legal complications.

Methods for Obtaining Consent

Although some state statutes do not define what constitutes consent, the FCC specifies methods for obtaining consent, including:

- **Verbal or written consent** given before the recording.
- **Verbal notification** before the recording begins (the most common method).

- An **audible beep tone** repeated at regular intervals during the call.

All Party Consent State Wiretap Laws

The following states require the consent of all parties involved in a communication for it to be legally recorded:

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

For these states, any recording of a conversation or communication without the consent of all parties involved is considered illegal and subject to penalties as prescribed by state law.

One Party Consent State Wiretap Laws

The majority of states (37 states and the District of Columbia) follow the "one-party" consent standard. This means a person can legally record a conversation if they are a participant or if one participant consents with full knowledge and notice. Additionally, Federal law (Electronic Communications Privacy Act) mandates the same "one-party" consent requirement.