

## Legislation Text

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**File #:** 2020-0201, **Version:** 1

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AN ORDINANCE creating the offense of obtaining information or disrupting video teleconferences of recovery, mental health, and behavioral health support groups without authorization; adding a new chapter to K.C.C. Title 12 and prescribing civil liability and criminal penalties.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

**SECTION 1. Findings:**

A. Videotelephony comprises the technologies for the reception and transmission of audio-video signals by users at different locations for communication in real time.

It includes computers, cellular telephones or any other devices with a video display, capable of simultaneous video and audio for communication between people in real time. Video conferencing is the use of the technology for two or more persons in a group or meeting with or without the use of video in addition to audio.

B. Video conferencing is a highly useful technology for a variety of purposes used by commercial, government and community groups to facilitate meetings and conferences. It is also a primary source of communication for those needing sign-language transmission for deaf and speech-impaired people and for those with mobility issues.

C. Video conferencing, via telemedicine and telenursing, allows patients to contact healthcare providers in emergency or routine situations for remote consulting and diagnosis. Behavioral health providers and organizations also use video conferencing for diagnosis, treatment and therapy for patients with mental health and substance use disorder diagnoses. In addition, individuals participating in recovery, mental health and behavioral health support groups, such as Alcoholics Anonymous or Narcotics Anonymous, have also used this video conferencing technology for meetings.

D. Federal and state law have established privacy requirements for both physical and behavioral health patients,

including participants in certain types of behavioral health therapy sessions. In addition, individuals participating in any private video teleconferences also have a reasonable expectation of privacy.

E. On February 29, 2020, the Washington state governor proclaimed that a State of Emergency exists in all counties in the state of Washington as a result of the COVID-19 pandemic.

F. In March 2020, the state and the county instituted "stay-at-home" orders to prevent the spread of COVID-19 that: require that all persons stay home unless they need to pursue an essential activity; ban all gatherings for social, spiritual and recreational purposes; and close all businesses except defined essential businesses. The orders have resulted in a significant increase in the use of video conferencing by behavioral health practitioners as well as individuals participating in group therapy sessions conducted by behavior health professionals and recovery, mental health and behavioral health support groups, including but not limited to Alcoholics Anonymous or Narcotics Anonymous.

G. Computer security experts have determined that poorly configured or inadequately supervised video teleconferencing system can permit an easy "virtual" entry by criminals into video teleconferencing systems making it possible to illicitly collect data about users or disrupt meetings.

H. Therefore, it is in the public interest to provide an enforcement mechanism to protect the privacy of video teleconference meetings of recovery, mental health and behavioral health support groups from unauthorized access to participant information or to disrupt meetings.

SECTION 2. Sections 3 through 7 of this ordinance should constitute a new chapter in K.C.C. Title 12.

NEW SECTION. SECTION 3. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Individual" means a single human being;

B. "Person" includes an individual, partnership, corporation or association;

C. "Video teleconference system" means any of the videotelephony technologies for the reception and transmission of signals for audio, video or both by users at different locations. "Video teleconference system" includes

computers, cellular telephones or any other devices with a video display, capable of simultaneous video and audio, or audio only, for communication between people in real time; and

D. "Video teleconferencing" means the use of a video teleconference system for a group consisting of two or more individuals.

NEW SECTION. SECTION 4.

A. It is unlawful for any person, to intercept, record or knowingly circumvent technological access measures or barriers to access to a video teleconference system in order to obtain information from or of the individuals participating in the video teleconference or interfere with the video teleconference system to disrupt a recovery, mental health and behavioral health support group meeting without first obtaining the consent of all the individuals engaged in the video teleconference meeting, where the technological access measures are specifically designed to exclude or prevent unauthorized individuals from obtaining the information or unauthorized participation in the video teleconference meeting.

B. When consent by all individuals is needed under to this section, consent shall be considered obtained whenever a person has announced to all the individuals engaged in the video teleconference meeting, in any reasonably effective manner, that such meeting is about to be recorded or transmitted.

NEW SECTION. SECTION 5. A person who violates this chapter shall be subject to civil cause of action for damages, to be brought by any individual claiming that a violation of this chapter has resulted in injury to that individual. An individual so injured shall be entitled to actual damages, including mental pain and suffering endured by the individual on account of violation of this chapter, and reasonable attorneys' fees and other costs of litigation.

NEW SECTION. SECTION 6. A violation of this chapter is a gross misdemeanor.

NEW SECTION. SECTION 7. The sheriff shall enforce this chapter, through means including, but not limited to, those in K.C.C. Title 23.