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**Criminal Justice & Corrections  
Committee**

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**HB 2651**

**Brief Description:** Increasing the penalty for intercepting, recording, or divulging private communications in executive sessions.

**Sponsors:** Representatives Sullivan, Anderson, Lovick, Jarrett, Simpson, D., Grant and Wallace.

**Brief Summary of Bill**

- Increases the penalty for unlawfully recording a conversation or communication in an executive session to a class C felony.

**Hearing Date:** 1/28/04

**Staff:** Jim Morishima (786-7191).

**Background:**

I. Illegal Sound Recordings

In general, it is unlawful for any person to record without the consent of all the persons involved: (1) Any private communication transmitted by telephone, telegraph, radio, or other device; or (2) any private conversation. The following types of conversations may be recorded with the consent of only one party to the conversation: (1) communications of an emergency nature (such as reporting a fire or crime), (2) communications that convey certain threats such as extortion or blackmail, (3) communications that occur repeatedly, anonymously, or at an extremely inconvenient hours, and (4) communications by a hostage holder or barricaded person.

A person who unlawfully records a communication or conversation is guilty of a gross misdemeanor.

II. Open Public Meetings

Under the Open Public Meetings Act, all meetings of a governing body of a public agency must be open to the public. However, executive sessions held for certain enumerated reasons may be closed to the public. Permissible reasons for conducting such an executive session include to consider matters affecting national security, to evaluate the qualifications of an applicant for public employment, or to discuss potential litigation with counsel. The provisions of the Open Public Meetings Act do not apply to the courts or the Legislature.

**Summary of Bill:**

A person who unlawfully records a communication or conversation in an executive session held under the Open Public Meetings Act is guilty of a class C felony with a seriousness level of I. The penalty for unlawfully recording a communication or conversation in any other manner remains a gross misdemeanor.

**Appropriation:** None.

**Fiscal Note:** Requested on January 20, 2004.

**Effective Date:** The bill takes effect on July 1, 2004.