

Recording Conversations as Evidence Could be an Offence in Family Law Case



Family law firm Watts McCray says recording conversations without consent can have legal implications. In their work as specialists in divorce cases, the law firm says it is alarming to see how often clients report that the other parent is routinely recording their conversations without their consent following separation or during family law proceedings. This behaviour is often perceived by the non-consenting party as intimidating and threatening and may be reported to the Police.

In New South Wales, the Surveillance Devices Act 2007 prohibits the recording of audio conversations without the consent of all parties unless it is reasonably necessary for the purpose of protecting the lawful interests of the party who records the conversation.

In New South Wales, it is an offence to knowingly install, use or cause or to maintain a listening device to overhear, record, monitor or listen to a private conversation to which the person is not a party or to record a private conversation to which the person is a party. There are penalties for this offence including fines and up to 5 years imprisonment.

Therefore a person who is a party to a private conversation may make a record of that conversation only if: all of the principal parties to the conversation consent, expressly or impliedly, to the listening device being so used; or a principal party to the conversation consents to the listening device being so used and the recording of the conversation is either: reasonably necessary for the protection of the lawful interests of that principal party; or not made for the purpose of communicating or publishing the conversation, or a report of the conversation, to persons who are not parties to the conversation.

If a person intends to record a conversation, in order to do so without committing an offence they must obtain the express or implied consent of all principal parties; or believe that it is reasonably necessary for the protection of their own lawful interests to make the recording without the consent of the other party.

Watts McCray states it is important to check the legislation in your own state in relation to surveillance. In Queensland, Victoria and the Northern Territory, it is not currently a criminal offence for a party to a private conversation to record that conversation without the consent of the other participants, but it is an offence in those jurisdictions to publish that recording unless permitted in limited circumstances including in legal proceedings.

For more information on divorce application, application for divorce, divorce lawyers Sydney and more, visit <https://www.wattsmccray.com.au/>

Contacts

Watts McCray Lawyers
(02) 9283 5877
mailto: