

A bill to be entitled

An act relating to custodial interrogations in cases involving capital felonies; creating s. 901.241, F.S., providing purpose and intent to create true, complete, and accurate records of certain custodial interrogations in order to eliminate factual disputes in court as to events alleged to have occurred during such interrogations; providing definitions; describing circumstances in which an oral, written, or sign language statement made by an accused person during a custodial interrogation is presumed inadmissible as evidence against such person; describing circumstances in which the prosecution may rebut such presumption; describing circumstances in which law enforcement officers may have good cause not to electronically record all or part of an interrogation; providing for the admissibility of certain statements of an accused person when made in certain proceedings or when obtained by federal law enforcement officers or law enforcement officers from other states; providing for the preservation of electronic recordings made pursuant to this act; providing for admissibility of certain statements of an accused person; providing an effective date.

WHEREAS, the reputations of countless hard-working law enforcement officers are needlessly attacked by criminal suspects who falsely claim that the officers have violated their constitutional rights, and

WHEREAS, limited trial court resources are squandered in

HB 0783

2004

30 hearings on motions seeking to suppress statements made by
 31 criminal suspects who are given the opportunity to make such
 32 claims because no recordings of their interrogations exist, and
 33 WHEREAS, further judicial resources are squandered when
 34 criminal suspects, after having been convicted of their crimes,
 35 file frivolous and unnecessary appeals, and

36 WHEREAS, this process is costing the taxpayers of Florida
 37 untold dollars each year, dollars which could be better spent
 38 enhancing the administration of the criminal justice system, and

39 WHEREAS, the low cost technology is now available in every
 40 jurisdiction, to record each and every custodial interrogation
 41 of a criminal suspect, eliminating this gross waste of resources
 42 and enhancing the reliability and reputation of law enforcement,
 43 NOW, THEREFORE,

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Section 901.241, Florida Statutes, is created
 48 to read:

49 901.241 Custodial interrogations in cases involving
 50 capital felonies.--

51 (1) This section shall apply to custodial interrogations
 52 in which the accused person is suspected of involvement in a
 53 capital felony.

54 (2) The purpose of this section is to enhance the quality
 55 of prosecution of those who may be guilty while affording
 56 protection to the innocent by providing a true, complete, and
 57 accurate record of the entire custodial interrogation. This
 58 section is intended to eliminate factual disputes in court as to

HB 0783

2004

59 events alleged to have occurred during a custodial
60 interrogation.

61 (3) As used in this section, the term:

62 (a) "Accused person" means a person who is suspected of
63 involvement in a capital felony.

64 (b) "Custodial interrogation" means questioning of an
65 accused person that is conducted in a law enforcement facility,
66 correctional facility, community correctional center, detention
67 facility, law enforcement vehicle, courthouse, or other secure
68 environment by law enforcement personnel or others acting in
69 concert with, or on behalf of, law enforcement personnel.

70 (c) "Electronic recording" means a true, complete, and
71 accurate reproduction of the entire custodial interrogation of
72 an accused person. An electronic recording may be created by
73 motion picture, videotape, audiotape, or digital media.

74 (4) An oral, written, or sign language statement made by
75 an accused person during a custodial interrogation shall be
76 presumed inadmissible as evidence against such person in a
77 criminal proceeding unless:

78 (a) The interrogation is reproduced in its entirety by
79 means of an electronic recording.

80 (b) Prior to the statement, but during the electronic
81 recording, the accused person is given the requisite Miranda
82 warnings and the accused person knowingly, intelligently, and
83 voluntarily waives any rights set out in the warnings.

84 (c) The electronic recording device was capable of making
85 a true, complete, and accurate recording of the interrogation,
86 the operator of such device was competent, and the electronic
87 recording has not been altered.

HB 0783

2004

88 (d) All voices that are material to the custodial
89 interrogation are identified on the electronic recording.

90 (e) During discovery pursuant to Rule 3.220, Florida Rules
91 of Criminal Procedure, but in no circumstances later than the
92 20th day before the date of the proceeding in which the
93 prosecution intends to offer the statement, the attorney
94 representing the defendant is provided with a true, complete,
95 and accurate copy of all electronic recordings of the defendant
96 made pursuant to this section.

97 (5)(a) In the absence of a true, complete, and accurate
98 electronic recording, the prosecution may rebut a presumption of
99 inadmissibility through clear and convincing evidence that:

100 1. The statement was both voluntary and reliable.

101 2. Law enforcement officers had good cause not to
102 electronically record all or part of the interrogation.

103 (b) For purposes of paragraph (a), "good cause" includes,
104 but is not limited to, the following:

105 1. The interrogation occurred in a location not identified
106 in paragraph (3)(b) and under exigent circumstances at which the
107 requisite recording equipment was not readily available and
108 there was no reasonable opportunity to move the defendant to a
109 location identified in paragraph (3)(b) or to a location at
110 which the requisite recording equipment was readily available;

111 2. The accused person refused to have the interrogation
112 electronically recorded and such refusal was electronically
113 recorded;

114 3. The failure to electronically record an entire
115 interrogation was the result of equipment failure and obtaining
116 replacement equipment was not feasible; or

HB 0783

2004

117 4. The statement of the accused person was obtained in the
118 course of electronic eavesdropping which was being conducted
119 pursuant to a properly obtained and issued warrant.

120 (6) Notwithstanding any other provision of this act, a
121 written, oral, or sign language statement of the accused person
122 made as a result of a custodial interrogation is admissible in a
123 criminal proceeding against the accused person in this state if:

124 (a) The statement was obtained in another state by law
125 enforcement personnel of such state, acting independently of law
126 enforcement personnel of this state, in compliance with the laws
127 of such state.

128 (b) The statement was obtained by a federal law
129 enforcement officer in this state or another state during a
130 lawful federal criminal investigation and was obtained in
131 compliance with the laws of the United States.

132 (7) Every electronic recording of a custodial
133 interrogation made pursuant to this section must be preserved
134 until such time as the defendant's conviction for any offense
135 relating to the interrogation is final and all direct and habeas
136 corpus appeals are exhausted, or the prosecution of such
137 offenses is barred by law.

138 (8) This section does not preclude the admission into
139 evidence of a statement made by the accused person:

140 (a) At the person's trial or other hearing held in open
141 court;

142 (b) Before a grand jury;

143 (c) That is the res gestae of the arrest or the offense;

144 or

145 (d) That does not arise from a custodial interrogation, as

HB 0783

2004

146 defined by this section.

147 Section 2. This act shall take effect July 1, 2004.