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A bill to be entitled
 An act relating to custodial interrogations in cases involving capital felonies; creating s. 901.241, F.S.; providing definitions; describing circumstances in which an oral, written, or sign language statement made by a capital interrogatee 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 a capital interrogatee when made in certain proceedings or when obtained by federal officers or officers from other states; providing for the preservation of electronic recordings; providing for admissibility of certain statements of a capital interrogatee; providing a finding of important state interest; providing application; providing an effective date.

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

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

901.241 Custodial interrogations in cases involving capital felonies.--

27 (1) This section shall apply to custodial interrogations
 28 in which the capital interrogee is suspected of involvement in a
 29 capital felony.

30 (2) As used in this section, the term:

31 (a) "Capital interrogee" means a person who, at the time
 32 of the interrogation and concerning any topic of the
 33 interrogation, is:

34 1. Charged with a capital felony; or

35 2. Suspected by those conducting the interrogation or
 36 investigating the capital felony of involvement in the capital
 37 felony.

38 (b) "Custodial interrogation" or "interrogation" means
 39 questioning of a capital interrogee in circumstances in which a
 40 reasonable person placed in the same position would believe that
 41 his or her freedom of action was curtailed to a degree
 42 associated with actual arrest.

43 (c) "Electronic recording" means a true, complete, and
 44 accurate reproduction of a custodial interrogation. An
 45 electronic recording may be created by motion picture,
 46 videotape, audiotape, or digital or other media.

47 (d) "Involvement" means participation in a crime as a
 48 principal or an accessory.

49 (e) "Interrogation facility" means a law enforcement
 50 facility, correctional facility, community correctional center,
 51 detention facility, law enforcement vehicle, courthouse, or
 52 other secure environment.

53 (3) An oral, written, or sign language statement made by a
 54 capital interrogee during a custodial interrogation shall be

55 presumed to be inadmissible as evidence against such person in a
56 criminal proceeding unless:

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

59 (b) Prior to the statement, but during the electronic
60 recording, the capital interrogee is given all constitutionally
61 required warnings and the capital interrogee knowingly,
62 intelligently, and voluntarily waives any rights set out in the
63 warnings that would, absent such waiver, otherwise preclude the
64 admission of the statement.

65 (c) The electronic recording device was capable of making
66 a true, complete, and accurate recording of the interrogation,
67 the operator of such device was competent, and the electronic
68 recording has not been altered.

69 (d) All persons recorded in the recording who are material
70 to the custodial interrogation are identified on the electronic
71 recording.

72 (e) During discovery pursuant to Rule 3.220, Florida Rules
73 of Criminal Procedure, but in no circumstances later than the
74 20th day before the date of the proceeding in which the
75 prosecution intends to offer the statement, the attorney
76 representing a capital interrogee is provided with true,
77 complete, and accurate copies of all electronic recordings of
78 the capital interrogee made pursuant to this section.

79 (4)(a) In the absence of a true, complete, and accurate
80 electronic recording, the prosecution may rebut a presumption of
81 inadmissibility through clear and convincing evidence that:

82 1. The statement was both voluntary and reliable.

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

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

87 1. The interrogation occurred in a location other than an
 88 interrogation facility under exigent circumstances where the
 89 requisite recording equipment was not readily available, and
 90 there was no reasonable opportunity to move the capital
 91 interrogee to an interrogation facility or to another location
 92 at which the requisite recording equipment was readily
 93 available;

94 2. The capital interrogee refused to have the
 95 interrogation electronically recorded and such refusal was
 96 electronically recorded;

97 3. The failure to electronically record an entire
 98 interrogation was the result of equipment failure and obtaining
 99 replacement equipment was not feasible; or

100 4. The statement of the capital interrogee was obtained in
 101 the course of electronic eavesdropping that was being conducted
 102 pursuant to a properly obtained and issued warrant or that
 103 required no warrant and was otherwise legally conducted.

104 (5) Notwithstanding any other provision of this section, a
 105 written, oral, or sign language statement of the capital
 106 interrogee made as a result of a custodial interrogation is
 107 admissible in a criminal proceeding against the capital
 108 interrogee in this state if:

109 (a) The statement was obtained in another state by
 110 investigative personnel of such state, acting independently of

111 law enforcement personnel of this state, in compliance with the
 112 laws of such state; or

113 (b) The statement was obtained by a federal officer in
 114 this state or another state during a lawful federal
 115 investigation and was obtained in compliance with the laws of
 116 the United States.

117 (6) Every electronic recording of a custodial
 118 interrogation made pursuant to this section must be preserved
 119 until the capital interrogee's conviction for any offense
 120 relating to the interrogation is final and all direct appeals
 121 and collateral challenges are exhausted, the prosecution of such
 122 offenses is barred by law, or the state irrevocably waives in
 123 writing any future prosecution of the capital interrogee for any
 124 offense relating to the interrogation.

125 (7) This section does not preclude the admission into
 126 evidence of a statement made by the capital interrogee:

127 (a) At his or her trial or other hearing held in open
 128 court;

129 (b) Before a grand jury;

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

131 or

132 (d) That does not arise from a custodial interrogation, as
 133 defined in this section.

134 Section 2. The Legislature finds that the reputations of
 135 countless hard-working law enforcement officers are needlessly
 136 attacked by criminal suspects who falsely claim the officers
 137 have violated the suspects' constitutional rights, that limited
 138 trial court resources are squandered in hearings on motions

139 seeking to suppress statements made by criminal suspects who are
140 given the opportunity to make such claims because no recordings
141 of their interrogations exist, and, further, that judicial
142 resources are squandered when criminal suspects, after having
143 been convicted of their crimes, file frivolous and unnecessary
144 appeals. This process costs the taxpayers of this state untold
145 dollars each year, dollars that could be better spent enhancing
146 the administration of the criminal justice system. Low-cost
147 technology is now available in every jurisdiction to record each
148 custodial interrogation of a criminal suspect, eliminating this
149 gross waste of resources and enhancing the reliability and
150 reputation of law enforcement. Therefore, the Legislature
151 determines and declares that this act fulfills an important
152 state interest.

153 Section 3. This act shall take effect July 1, 2006, and
154 shall apply to interrogations taking place on or after that
155 date.