



1           (1) This section applies to custodial interrogations  
2 in which the capital interrogee is suspected of involvement in  
3 a capital felony.

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

5           (a) "Capital interrogee" means a person who, at the  
6 time of the interrogation and concerning any topic of the  
7 interrogation, is:

8           1. Charged with a capital felony; or

9           2. Suspected by those conducting the interrogation or  
10 investigating the capital felony of involvement in the capital  
11 felony.

12           (b) "Custodial interrogation" or "interrogation" means  
13 questioning of a capital interrogee in circumstances in which  
14 a reasonable person placed in the same position would believe  
15 that his or her freedom of action was curtailed to a degree  
16 associated with actual arrest.

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

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

23           (e) "Interrogation facility" means a law enforcement  
24 facility, correctional facility, community correctional  
25 center, detention facility, law enforcement vehicle,  
26 courthouse, or other secure environment.

27           (3) An oral, written, or sign-language statement which  
28 was made by a capital interrogee during a custodial  
29 interrogation shall be presumed to be inadmissible as evidence  
30 against such person in a criminal proceeding unless:

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

3       (b) Prior to the statement, but during the electronic  
4 recording, the capital interrogee is given all  
5 constitutionally required warnings and the capital interrogee  
6 knowingly, intelligently, and voluntarily waives any rights  
7 set out in the warnings which would, absent such waiver,  
8 otherwise preclude the admission of the statement.

9       (c) The electronic recording device was capable of  
10 making a true, complete, and accurate recording of the  
11 interrogation, the operator of such device was competent, and  
12 the electronic recording has not been altered.

13       (d) All persons recorded in the recording who are  
14 material to the custodial interrogation are identified on the  
15 electronic recording.

16       (e) During discovery pursuant to Rule 3.220, Florida  
17 Rules of Criminal Procedure, but in no circumstances later  
18 than the 20th day before the date of the proceeding in which  
19 the prosecution intends to offer the statement, the attorney  
20 representing a capital interrogee is provided with true,  
21 complete, and accurate copies of all electronic recordings of  
22 the capital interrogee which are made pursuant to this  
23 section.

24       (4)(a) In the absence of a true, complete, and  
25 accurate electronic recording, the prosecution may rebut a  
26 presumption of inadmissibility through clear and convincing  
27 evidence that:

- 28           1. The statement was both voluntary and reliable.  
29           2. Law enforcement officers had good cause not to  
30 electronically record all or part of the interrogation.  
31

1           (b) For purposes of paragraph (a), the term "good  
2 cause" includes, but is not limited to:

3           1. The interrogation occurred in a location other than  
4 an interrogation facility under exigent circumstances where  
5 the requisite recording equipment was not readily available,  
6 and there was no reasonable opportunity to move the capital  
7 interrogee to an interrogation facility or to another location  
8 at which the requisite recording equipment was readily  
9 available;

10           2. The capital interrogee refused to have the  
11 interrogation electronically recorded and such refusal was  
12 electronically recorded;

13           3. The failure to electronically record an entire  
14 interrogation was the result of equipment failure and  
15 obtaining replacement equipment was not feasible; or

16           4. The statement of the capital interrogee was  
17 obtained in the course of electronic eavesdropping that was  
18 being conducted pursuant to a properly obtained and issued  
19 warrant or that required no warrant and was otherwise legally  
20 conducted.

21           (5) Notwithstanding any other provision of this  
22 section, a written, oral, or sign-language statement of the  
23 capital interrogee which was made as a result of a custodial  
24 interrogation is admissible in a criminal proceeding against  
25 the capital interrogee in this state if:

26           (a) The statement was obtained in another state by  
27 investigative personnel of such state, acting independently of  
28 law enforcement personnel of this state, in compliance with  
29 the laws of such state; or

30           (b) The statement was obtained by a federal officer in  
31 this state or another state during a lawful federal

1 investigation and was obtained in compliance with the laws of  
2 the United States.

3 (6) Every electronic recording of a custodial  
4 interrogation made pursuant to this section must be preserved  
5 until the capital interrogee's conviction for any offense  
6 relating to the interrogation is final and all direct appeals  
7 and collateral challenges are exhausted, the prosecution of  
8 such offenses is barred by law, or the state irrevocably  
9 waives in writing any future prosecution of the capital  
10 interrogee for any offense relating to the interrogation.

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

13 (a) At his or her trial or other hearing held in open  
14 court;

15 (b) Before a grand jury;

16 (c) Which is the res gestae of the arrest or the  
17 offense; or

18 (d) Which does not arise from a custodial  
19 interrogation, as defined in this section.

20 Section 2. The Legislature finds that the reputations  
21 of countless hard-working law enforcement officers are  
22 needlessly attacked by criminal suspects who falsely claim the  
23 officers have violated the suspects' constitutional rights,  
24 that limited trial court resources are squandered in hearings  
25 on motions seeking to suppress statements made by criminal  
26 suspects who are given the opportunity to make such claims  
27 because no recordings of their interrogations exist, and,  
28 further, that judicial resources are squandered when criminal  
29 suspects, after having been convicted of their crimes, file  
30 frivolous and unnecessary appeals. This process costs the  
31 taxpayers of this state untold dollars each year, dollars that

