

A bill to be entitled

An act relating to custodial interrogations; requiring that statements made during covered custodial interrogations be recorded; providing definitions; requiring that electronic recordings be preserved for a specified period; providing that failure to electronically record the interrogation shall be a factor for the trial court and jury to consider when making certain decisions; providing for cautionary jury instructions, if requested; specifying that no civil cause of action arises from a failure to comply with the requirement; providing an effective date.

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

Section 1. Recording certain custodial interrogations.—

(1) Law enforcement agencies shall electronically record statements of suspects during covered custodial interrogations in investigations of covered offenses.

(2) For purposes of this section, the term:

(a) "Covered custodial interrogation" means the entirety of any custodial questioning by law enforcement personnel or others acting in concert with law enforcement personnel, when the questioning is conducted in a law enforcement facility, a police vehicle, courthouse, correctional facility, community correctional center, detention facility, or other secure

27 environment.

28 (b) "Covered offense" means any of the following
 29 felony offenses:

30 1. Aggravated abuse of an elderly person or disabled
 31 adult.

32 2. Aggravated assault with a deadly weapon.

33 3. Aggravated battery.

34 4. Aggravated child abuse.

35 5. Aggravated manslaughter of a child.

36 6. Aggravated manslaughter of an elderly person or
 37 disabled adult.

38 7. Aggravated stalking.

39 8. Armed burglary.

40 9. Arson.

41 10. Carjacking.

42 11. Home invasion robbery.

43 12. Kidnapping.

44 13. Manslaughter.

45 14. Murder.

46 15. Robbery.

47 16. Sexual battery.

48 17. Unlawful throwing, placing, or discharging of a
 49 destructive device or bomb.

50 (3) (a) An appropriate electronic recording of the
 51 statement of a suspect is an audio or video recording, as
 52 appropriate to the setting in which the questioning takes place,

53 unless the questioning takes place under circumstances in which
54 an electronic recording is impracticable or unless law
55 enforcement has other good cause.

56 (b) The recording should include the requisite
57 constitutionally required warnings and a suspect's subsequent
58 waivers of the rights set forth in those warnings. The recording
59 must include an electronic recording of any language or sign
60 interpreter.

61 (4) Law enforcement agencies may comply with this section
62 through the use of covert recordings of custodial
63 interrogations.

64 (5) All electronic recordings shall be preserved until the
65 investigation for the covered offense is closed and all
66 convictions relating to the investigation, along with all
67 collateral appeals, are final and exhausted.

68 (6) The failure to electronically record the interrogation
69 of a suspect in a covered custodial interrogation shall be a
70 factor for consideration by the trial court in determining the
71 admissibility of any statement made by the suspect and shall be
72 a factor for consideration by the jury in determining whether
73 the statement was made by the suspect and, if so, the weight, if
74 any, to be given to the statement.

75 (7) In the absence of an electronic recording as required
76 in subsection (1), the court shall, upon request of the
77 defendant, provide the jury with a cautionary instruction.

78 (8) No civil cause of action shall arise from an

HB 1095

2014

79 | agency's failure to comply with this section.

80 | Section 2. This act shall take effect October 1, 2014.