

By Senator Joyner

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1 A bill to be entitled
2 An act relating to custodial interrogations; creating
3 s. 901.246, F.S.; defining terms; requiring a law
4 enforcement agency to electronically record the
5 statement of a suspect under certain circumstances;
6 providing requirements for an electronic recording;
7 authorizing a law enforcement agency to covertly
8 record statements; requiring electronic statements to
9 be preserved for a certain time period; authorizing
10 the court to consider the failure to record a
11 statement in determining the admissibility of such
12 statement; authorizing the jury to consider the
13 failure to record a statement in determining whether a
14 statement was made and the weight to give such
15 statement; requiring the court to provide the jury
16 with a specified instruction under certain
17 circumstances; providing that a civil cause of action
18 does not arise from the failure of a law enforcement
19 agency to comply with this section; providing an
20 effective date.

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

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24 Section 1. Section 901.246, Florida Statutes, is created to
25 read:

26 901.246 Electronic recording of custodial interrogations.-

27 (1) As used in this section, the term:

28 (a) "Covered custodial interrogation" means the entirety of
29 any custodial questioning by law enforcement personnel or

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30 persons acting in concert with law enforcement personnel when
31 such questioning is conducted in a law enforcement facility,
32 police vehicle, courthouse, correctional facility, community
33 correctional center, detention facility, or other secure
34 environment.

35 (b) "Covered offense" means any of the following felony
36 offenses:

37 1. Murder as provided in s. 782.04.

38 2. Manslaughter as provided in s. 782.07(1).

39 3. Aggravated manslaughter of an elderly person or disabled
40 adult as provided in s. 782.07(2).

41 4. Aggravated manslaughter of a child as provided in s.
42 782.07(3).

43 5. Aggravated assault with a deadly weapon without intent
44 to kill as provided in s. 784.021(1)(a).

45 6. Aggravated battery as provided in s. 784.045.

46 7. Aggravated stalking as provided in s. 784.048(3), (4),
47 (5), and (7).

48 8. Kidnapping as provided in s. 787.01.

49 9. Unlawful making, possessing, throwing, projecting,
50 placing, or discharging of a destructive device or bomb as
51 provided in s. 790.161.

52 10. Sexual battery as provided in s. 794.011.

53 11. Arson as provided in s. 806.01.

54 12. Armed burglary as provided in s. 810.02(2).

55 13. Robbery as provided in s. 812.13.

56 14. Carjacking as provided in s. 812.133.

57 15. Home-invasion robbery as provided in s. 812.135.

58 16. Aggravated abuse of an elderly person or disabled adult

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59 as provided in s. 825.102.

60 17. Aggravated child abuse as provided in s. 827.03.

61 (c) "Electronic recording" means an audio or video
62 recording of a covered custodial interrogation, as appropriate
63 to the setting in which the questioning takes place, unless the
64 questioning takes place under circumstances in which an
65 electronic recording is impracticable or the law enforcement
66 agency has other good cause.

67 (2) A law enforcement agency shall make an electronic
68 recording of a statement made by a suspect during a covered
69 custodial interrogation in an investigation of a covered
70 offense. The electronic recording must include requisite Miranda
71 warnings and a suspect's subsequent waivers of the rights set
72 forth in those warnings. The electronic recording must also
73 include a recording of any foreign language or sign language
74 interpreter.

75 (3) A law enforcement agency may comply with this section
76 through the use of covert electronic recordings of covered
77 custodial interrogations.

78 (4) All electronic recordings must be preserved until the
79 investigation for the covered offense is closed and all
80 convictions relating to the investigation, including all
81 collateral appeals, are final and exhausted.

82 (5) The trial court may consider the failure to make an
83 electronic recording of the interrogation of a suspect in a
84 covered custodial interrogation in determining the admissibility
85 of any statement made by the suspect.

86 (6) The jury may consider the failure to make an electronic
87 recording of the interrogation of a suspect in a covered

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88 custodial interrogation in determining whether the statement was
89 made and, if so, the weight, if any, to give to the statement.
90 Upon request of the defendant, the court shall instruct the jury
91 accordingly.

92 (7) A civil cause of action does not arise from a failure
93 of a law enforcement agency to comply with this section.

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