



General Assembly

January Session, 2011

**Raised Bill No. 954**

LCO No. 3066

\* SB00954APP\_051111 \*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE ELECTRONIC RECORDING OF  
CUSTODIAL INTERROGATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) For the purposes of  
2 this section:

3 (1) "Custody" means the circumstance when (A) a person has been  
4 placed under formal arrest, or (B) there is a restraint on a person's  
5 freedom of movement of the degree associated with a formal arrest  
6 and a reasonable person, in view of all the circumstances, would have  
7 believed that he or she was not free to leave;

8 (2) "Interrogation" means questioning initiated by a law  
9 enforcement official or any words or actions on the part of a law  
10 enforcement official, other than those normally attendant to arrest and  
11 custody, that such official should know are reasonably likely to elicit  
12 an incriminating response from the person;

13 (3) "Custodial interrogation" means any interrogation of a person  
14 while such person is in custody;

15 (4) "Place of detention" means a police station or barracks,  
16 courthouse, correctional facility, community correctional center or  
17 detention facility; and

18 (5) "Electronic recording" means an audiovisual recording made by  
19 use of an electronic or digital audiovisual device.

20 (b) An oral, written or sign language statement of a person under  
21 investigation for or accused of a capital felony or a class A or B felony  
22 made as a result of a custodial interrogation at a place of detention  
23 shall be presumed to be inadmissible as evidence against the person in  
24 any criminal proceeding unless: (1) An electronic recording is made of  
25 the custodial interrogation, and (2) such recording is substantially  
26 accurate and not intentionally altered.

27 (c) Every electronic recording required under this section shall be  
28 preserved until such time as the person's conviction for any offense  
29 relating to the statement is final and all direct and habeas corpus  
30 appeals are exhausted or the prosecution is barred by law.

31 (d) If the court finds by a preponderance of the evidence that the  
32 person was subjected to a custodial interrogation in violation of this  
33 section, then any statements made by the person during or following  
34 that nonrecorded custodial interrogation, even if otherwise in  
35 compliance with this section, are presumed to be inadmissible in any  
36 criminal proceeding against the person except for the purposes of  
37 impeachment.

38 (e) Nothing in this section precludes the admission of:

39 (1) A statement made by the person in open court at his or her trial  
40 or at a preliminary hearing;

41 (2) A statement made during a custodial interrogation that was not  
42 recorded as required by this section because electronic recording was  
43 not feasible;

44 (3) A voluntary statement, whether or not the result of a custodial  
45 interrogation, that has a bearing on the credibility of the person as a  
46 witness;

47 (4) A spontaneous statement that is not made in response to a  
48 question;

49 (5) A statement made after questioning that is routinely asked  
50 during the processing of the arrest of the person;

51 (6) A statement made during a custodial interrogation by a person  
52 who requests, prior to making the statement, to respond to the  
53 interrogator's questions only if an electronic recording is not made of  
54 the statement, provided an electronic recording is made of the  
55 statement by the person agreeing to respond to the interrogator's  
56 question only if a recording is not made of the statement;

57 (7) A statement made during a custodial interrogation that is  
58 conducted out-of-state;

59 (8) A statement made at a time when the interrogators are unaware  
60 that a death has in fact occurred; and

61 (9) Any other statement that may be admissible under law.

62 (f) The state shall have the burden of proving, by a preponderance  
63 of the evidence, that one of the exceptions specified in subsection (e) of  
64 this section is applicable.

65 (g) Nothing in this section precludes the admission of a statement,  
66 otherwise inadmissible under this section, that is used only for  
67 impeachment and not as substantive evidence.

68 (h) The presumption of inadmissibility of a statement made by a  
69 person at a custodial interrogation at a place of detention may be  
70 overcome by a preponderance of the evidence that the statement was  
71 voluntarily given and is reliable, based on the totality of the

72 circumstances.

73 (i) Any electronic recording of any statement made by a person at a  
74 custodial interrogation that is made by any law enforcement agency  
75 under this section shall be confidential and not subject to disclosure  
76 under the Freedom of Information Act, as defined in section 1-200 of  
77 the general statutes, and the information shall not be transmitted to  
78 any person except as needed to comply with this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section

**JUD**      *Joint Favorable*

**APP**      *Joint Favorable*