



Senate Bill No. 954

Public Act No. 11-174

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

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

Section 1. (NEW) (*Effective January 1, 2014*) (a) For the purposes of this section:

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

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

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

(4) "Place of detention" means a police station or barracks, courthouse, correctional facility, community correctional center or

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detention facility; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2. (*Effective from passage*) The Chief State's Attorney, in conjunction with the Police Officer Standards and Training Council and a representative of the Connecticut Police Chiefs Association, shall, not later than January 1, 2012, establish standards for the equipment to be used in the electronic recording of custodial interrogations pursuant to section 1 of this act, including the transcription of such recording, and for the training of law enforcement personnel in the operation of such equipment.

Approved July 13, 2011