

SENATE BILL 261

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 7, relative to the electronic recording of certain custodial interrogations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 7, is amended by adding the following as a new part:

Section 40-7-301.

It is the intent of the general assembly by enacting this part to improve the administration of justice, to protect law enforcement from false or fabricated claims of abuse or coercion, to avoid unnecessary litigation that would consume time and resources, to reduce the risk of false confessions, and to improve the relationship between law enforcement officers and the communities they serve.

Section 40-7-302.

(a) "Custodial interrogation" means an interview which occurs while a person is in custody in a place of detention, involving a law enforcement officer's questioning that is reasonably likely to elicit incriminating responses.

(b) "Place of detention" means a jail, police or sheriff's station, holding cell, or correctional or detention facility.

(c) "Electronic recording" or "electronically recorded" means an audio, video or digital recording that is an authentic, accurate, unaltered record of a custodial interrogation, beginning with a law enforcement officer's advice of the person's constitutional rights and ending when the interview has completely finished.

(d) "Statement" means an oral, written, sign language or nonverbal communication.

Section 40-7-303.

All statements made by a person during a custodial interrogation relating to any homicide, as defined by law for adult and juvenile offenders, shall be electronically recorded and preserved.

Section 40-7-304.

Any statement otherwise admissible under the Tennessee rules of evidence that is made by a person during a custodial interrogation shall be admissible as evidence at trial notwithstanding that the statement was not electronically recorded as required by this part.

Section 40-7-305.

Unless otherwise ordered by a court of competent jurisdiction or required by a rule of court, the original of each electronic recording of a custodial interrogation required pursuant to this part shall be clearly identified and catalogued by the law enforcement agency that made the recording and shall be preserved by such agency in the following manner:

(1), If a delinquency petition or criminal proceeding is instituted against a person who was the subject of an electronically recorded custodial interrogation, the recording shall be preserved until all appeals, post-conviction and habeas corpus proceedings are final and concluded, or the time within which they must be brought has expired.

(2) If no delinquency petition or criminal proceeding is instituted against a person who was the subject of an electronically recorded custodial interrogation, the recording shall be preserved until all

applicable statutes of limitations bar prosecution of, or further proceedings against, the person.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it and shall apply to all custodial interrogations conducted on or after such date.