

Michigan Compiled Laws Annotated
Chapters 760 to 777 Code of Criminal Procedure (Refs & Annos)
Chapter 763. Code of Criminal Procedure--Rights of Persons Accused (Refs & Annos)
Chapter III. Rights of Persons Accused

M.C.L.A. 763.7

763.7. Definitions

Effective: March 28, 2013

[Currentness](#)

<Effective March 28, 2013.>

Sec. 7. As used in this section and sections 8 to 10 of this chapter:¹

(a) "Custodial detention" means an individual's being in a place of detention because a law enforcement official has told the individual that he or she is under arrest or because the individual, under the totality of the circumstances, reasonably could believe that he or she is under a law enforcement official's control and is not free to leave.

(b) "Interrogation" means questioning in a criminal investigation that may elicit a self-incriminating response from an individual and includes a law enforcement official's words or actions that the law enforcement official should know are reasonably likely to elicit a self-incriminating response from the individual.

(c) "Law enforcement official" means any of the following:

(i) A police officer of this state or a political subdivision of this state as defined in section 2 of the commission on law enforcement standards act, 1965 PA 203, [MCL 28.602](#).

(ii) A county sheriff or his or her deputy.

(iii) A prosecuting attorney.

(iv) A public safety officer of a college or university.

(v) A conservation officer of the department of natural resources and environment.

(vi) An individual acting under the direction of a law enforcement official described in subparagraphs (i) to (v).

763.7. Definitions, MI ST 763.7

(d) “Major felony” means a felony punishable by imprisonment for life, for life or any term of years, or for a statutory maximum of 20 years or more, or a violation of section 520d of the Michigan penal code, 1931 PA 328, [MCL 750.520d](#).

(e) “Major felony recording” means the interrogation recording required under section 8 of this chapter or a duplicate of that recording.

(f) “Place of detention” means a police station, correctional facility, or prisoner holding facility or another governmental facility where an individual may be held in connection with a criminal charge that has been or may be filed against the individual.

Credits

P.A.1927, No. 175, § 7, added by [P.A.2012, No. 479, Eff. March 28, 2013](#).

Footnotes

¹

[M.C.L.A. §§ 763.8 to 763.10](#).

M. C. L. A. 763.7, MI ST 763.7

The statutes are current through P.A.2013, No. 8, of the 2013 Regular Session, 97th Legislature.

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M.C.L.A. 763.8

763.8. Custodial interrogations; audiovisual recordings required; objections by individual recorded; major felony cases, additional requirements; discovery; public disclosure exemption

Effective: March 28, 2013

[Currentness](#)

<Effective March 28, 2013.>

Sec. 8. (1) This section applies if the law enforcement agency has audiovisual recording equipment that is operational or accessible as provided in section 11(3) or (4)¹ or upon the expiration of the relevant time periods set forth in section 11(3) or (4), whichever occurs first.

(2) A law enforcement official interrogating an individual in custodial detention regarding the individual's involvement in the commission of a major felony shall make a time-stamped, audiovisual recording of the entire interrogation. A major felony recording shall include the law enforcement official's notification to the individual of the individual's Miranda rights.

(3) An individual who believes the individual's interrogation is being recorded may object to having the interrogation recorded. The individual's objection shall be documented either by the individual's objection stated on the recording or the individual's signature on a document stating the objection. If the individual refuses to document the objection either by recording or signature, a law enforcement official shall document the objection by a recording or signed document. A major felony recording may be made without the consent or knowledge of, or despite the objection of, the individual being interrogated.

(4) A major felony recording shall be produced using equipment and procedures that are designed to prevent alteration of the recording's audio or visual record.

(5) Pursuant to any request of discovery, the prosecutor shall provide a copy of the recorded statement to the defense counsel of record or to the defendant if he or she is not represented by defense counsel. The court shall not require the police or the prosecutor to prepare or pay for a transcript of a recorded statement. A court or the defense may have a transcript prepared at its own expense.

(6) Prior to conviction or acquittal, a statement recorded under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, [MCL 15.231](#) to [15.246](#).

763.8. Custodial interrogations; audiovisual recordings required;..., MI ST 763.8

Credits

P.A.1927, No. 175, § 8, added by [P.A.2012, No. 479, Eff. March 28, 2013](#).

Footnotes

¹

[M.C.L.A. § 763.11](#).

M. C. L. A. 763.8, MI ST 763.8

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M.C.L.A. 763.9

763.9. Failure to record or to preserve recorded statements; effect on criminal trial

Effective: March 28, 2013

[Currentness](#)

<Effective March 28, 2013.>

Sec. 9. Any failure to record a statement as required under section 8 of this chapter¹ or to preserve a recorded statement does not prevent any law enforcement official present during the taking of the statement from testifying in court as to the circumstances and content of the individual's statement if the court determines that the statement is otherwise admissible. However, unless the individual objected to having the interrogation recorded and that objection was properly documented under section 8(3), the jury shall be instructed that it is the law of this state to record statements of an individual in custodial detention who is under interrogation for a major felony and that the jury may consider the absence of a recording in evaluating the evidence relating to the individual's statement.

Credits

P.A.1927, No. 175, § 9, added by [P.A.2012, No. 479, Eff. March 28, 2013](#).

Footnotes

¹

[M.C.L.A. § 763.8](#).

M. C. L. A. 763.9, MI ST 763.9

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M.C.L.A. 763.10

763.10. No civil cause of action or other individual right from failure to comply

Effective: March 28, 2013

[Currentness](#)

<Effective March 28, 2013.>

Sec. 10. A failure to comply with sections 8 and 9 of this chapter¹ does not create a civil cause of action against a department or individual. The requirement in section 8 of this chapter to produce a major felony recording is a directive to departments and law enforcement officials and not a right conferred on an individual who is interrogated.

Credits

P.A.1927, No. 175, § 10, added by [P.A.2012, No. 479, Eff. March 28, 2013](#).

Footnotes

¹

[M.C.L.A. §§ 763.8 and 763.9](#).

M. C. L. A. 763.10, MI ST 763.10

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M.C.L.A. 763.11

763.11. Commission on law enforcement standards, quality standards and cost assessments for recording; appropriations; implementation and compliance deadlines

Effective: March 28, 2013

[Currentness](#)

<Effective March 28, 2013.>

Sec. 11. (1) The commission on law enforcement standards created under section 3 of the commission on law enforcement standards act, 1965 PA 203, [MCL 28.603](#), shall set quality standards for the audiovisual recording of statements under section 8 of this chapter and standards for geographic accessibility of equipment in the state. The commission shall also conduct an assessment of the initial cost necessary for law enforcement agencies to purchase audiovisual recording equipment. The first assessment shall be conducted within 120 days after the effective date of the amendatory act that added this section. The commission on law enforcement standards shall conduct subsequent assessments regarding the necessary costs of purchasing, upgrading, or replacing the equipment every 2 years.

(2) The commission on law enforcement standards shall recommend to the legislature each year an annual appropriation amount to be determined by the commission's assessment performed under this section. The legislature shall annually appropriate funds to the commission on law enforcement standards for distribution to law enforcement agencies throughout the state to allow the agencies to purchase audiovisual recording equipment for purposes of this chapter. Any funds appropriated for this purpose shall be in addition to the appropriations provided to the commission on law enforcement standards and the department of state police in the immediately preceding fiscal year and shall not be appropriated from the Michigan justice training fund created in section 5 of 1982 PA 302, [MCL 18.425](#), or the department of state police budget.

(3) Except as otherwise provided in subsection (4), law enforcement agencies shall implement sections 7 to 10 of this chapter¹ and this section within 120 days after receiving funds under this section from the commission on law enforcement standards or acquiring access to audiovisual recording equipment as directed by the standards set forth by that commission.

(4) Notwithstanding subsection (3), a law enforcement agency shall comply with the provisions of the amendatory act that added this subsection within 60 days after the date the commission adopts the standards for audiovisual recording equipment required by this section if the law enforcement agency has audiovisual recording equipment that complies with those standards on that date, or within 60 days after the date the law enforcement agency subsequently obtains audiovisual recording equipment that complies with the adopted standards.

Credits

P.A.1927, No. 175, § 11, added by [P.A.2012, No. 479, Eff. March 28, 2013](#).

Footnotes

¹

[M.C.L.A. §§ 763.7 to 763.10.](#)

M. C. L. A. 763.11, MI ST 763.11

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