

# An Act

ENROLLED SENATE  
BILL NO. 636

By: Daniels and Floyd of the  
Senate

and

Kannady of the House

An Act relating to criminal procedure; defining terms; requiring law enforcement agencies to adopt policies related to electronic recording of custodial interrogations; requiring policies to be made public; requiring inclusion of certain information in policies; providing exceptions; providing for codification; and providing an effective date.

SUBJECT: Electronic recording of custodial interrogations

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Custodial interrogation" means questioning of a person to whom warnings given pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), are required to be given;

2. "Electronic recording" means audio or audiovisual recording; provided, an audiovisual recording shall be used when feasible; and

3. "Place of detention" means a fixed location under the control of a law enforcement agency of this state where individuals are questioned about alleged crimes.

B. All law enforcement agencies of this state, in collaboration with the county or district attorney in the appropriate jurisdiction, shall adopt a detailed written policy requiring electronic recording of a custodial interrogation of an individual suspected of homicide or a felony sex offense that is conducted at a place of detention. A policy adopted pursuant to this section shall be made available to all officers of the law enforcement agency and shall be available for public inspection during normal business hours. A policy adopted pursuant to this section shall include the following:

1. A requirement that an electronic recording shall be made of an entire custodial interrogation of an individual suspected of homicide or a felony sex offense that is conducted at a place of detention;

2. A requirement that if the defendant elects to make or sign a written statement during the course of a custodial interrogation concerning a homicide or a felony sex offense, the making and signing of the statement shall be electronically recorded;

3. Requirements pertaining to the retention and storage of the electronic recording; and

4. A statement of exceptions to the requirement for electronically recording custodial interrogations under this section, including, but not limited to:

- a. an equipment malfunction preventing electronic recording of the interrogation in its entirety, and replacement equipment is not immediately available,
- b. the officer, in good faith, fails to record the interrogation because the officer inadvertently fails to operate the recording equipment properly, or without the officer's knowledge the recording equipment malfunctions or stops recording,
- c. the suspect affirmatively asserts the desire to speak with officers without being recorded,

- d. multiple interrogations are taking place simultaneously, exceeding the available electronic recording capacity,
- e. the statement is made spontaneously and not in response to an interrogation question,
- f. the statement is made during questioning that is routinely asked during the processing of an arrest of a suspect,
- g. the statement is made at a time when the officer is unaware of the suspect's involvement in an offense covered by the policy,
- h. exigent circumstances make recording impractical,
- i. at the time of the interrogation, the officer, in good faith, is unaware of the type of offense involved, and
- j. the recording is damaged or destroyed, without bad faith on the part of any person or entity in control of the recording.

SECTION 2. This act shall become effective November 1, 2019.

Passed the Senate the 2nd day of May, 2019.

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Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2019.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_