

FIRST REGULAR SESSION

# SENATE BILL NO. 310

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Read 1st time February 4, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1689S.02I

## AN ACT

To amend chapter 590, RSMo, by adding thereto one new section relating to recording of custodial suspect interrogations, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 590, RSMo, is amended by adding thereto one new section, to be known as section 590.701, to read as follows:

**590.701. 1. As used in this section, the following terms shall mean:**

**(1) "Custodial interrogation", the questioning of a person under arrest, who is no longer at the scene of the crime, by a member of a law enforcement agency along with the answers and other statements of the person questioned. "Custodial interrogation" shall not include:**

**(a) A situation in which a person voluntarily agrees to meet with a member of a law enforcement agency;**

**(b) A detention by a law enforcement agency that has not risen to the level of an arrest;**

**(c) Questioning that is routinely asked during the processing of the arrest of the suspect;**

**(d) Questioning pursuant to an alcohol influence report;**

**(e) Questioning during the transportation of a suspect;**

**(2) "Recorded" and "recording", any form of audiotape, videotape, motion picture, or digital recording.**

**2. All custodial interrogations of persons suspected of committing or attempting to commit murder in the first degree, murder in the second degree, assault in the first degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree,**

22 arson in the first degree, forcible rape, forcible sodomy, kidnapping,  
23 statutory rape in the first degree, statutory sodomy in the first degree,  
24 child abuse, or child kidnapping shall be recorded when feasible.

25 3. Law enforcement agencies may record an interrogation in any  
26 circumstance with or without the knowledge or consent of a suspect,  
27 but they shall not be required to record an interrogation under  
28 subsection 2 of this section:

29 (1) If the suspect requests that the interrogation not be recorded;

30 (2) If the interrogation occurs outside the state of Missouri;

31 (3) If exigent public safety circumstances prevent recording;

32 (4) To the extent the suspect makes spontaneous statements;

33 (5) If the recording equipment fails; or

34 (6) If recording equipment is not available at the location where  
35 the interrogation takes place.

36 4. Each law enforcement agency shall adopt a written policy to  
37 record custodial interrogations of persons suspected of committing or  
38 attempting to commit the felony crimes described in subsection 2 of  
39 this section.

40 5. If a law enforcement agency fails to comply with the  
41 provisions of this section, the governor may withhold any state funds  
42 appropriated to the noncompliant law enforcement agency if the  
43 governor finds that the agency did not act in good faith in attempting  
44 to comply with the provisions of this section.

45 6. Nothing in this section shall be construed as a ground to  
46 exclude evidence, and a violation of this section shall not have impact  
47 other than that provided for in subsection 5 of this section. Compliance  
48 or noncompliance with this section shall not be admitted as evidence,  
49 argued, referenced, considered or questioned during a criminal trial.

50 7. Nothing contained in this section shall be construed to  
51 authorize, create, or imply a private cause of action.

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