

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 ENGROSSED SENATE
5 BILL NO. 636

By: Daniels and Floyd of the
Senate

6 and

7 Kannady of the House

8
9
10 An Act relating to criminal procedure; defining
11 terms; requiring law enforcement agencies to adopt
12 policies related to electronic recording of custodial
13 interrogations; requiring policies to be made public;
14 requiring inclusion of certain information in
15 policies; providing exceptions; providing for
16 codification; and providing an effective date.

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

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

21 A. As used in this section:

22 1. "Custodial interrogation" means questioning of a person to
23 whom warnings given pursuant to Miranda v. Arizona, 384 U.S. 436
24 (1966), are required to be given;

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

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

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

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

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

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

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

6 a. an equipment malfunction preventing electronic
7 recording of the interrogation in its entirety, and
8 replacement equipment is not immediately available,

9 b. the officer, in good faith, fails to record the
10 interrogation because the officer inadvertently fails
11 to operate the recording equipment properly, or
12 without the officer's knowledge the recording
13 equipment malfunctions or stops recording,

14 c. the suspect affirmatively asserts the desire to speak
15 with officers without being recorded,

16 d. multiple interrogations are taking place
17 simultaneously, exceeding the available electronic
18 recording capacity,

19 e. the statement is made spontaneously and not in
20 response to an interrogation question,

21 f. the statement is made during questioning that is
22 routinely asked during the processing of an arrest of
23 a suspect,

- 1 g. the statement is made at a time when the officer is
2 unaware of the suspect's involvement in an offense
3 covered by the policy,
4 h. exigent circumstances make recording impractical,
5 i. at the time of the interrogation, the officer, in good
6 faith, is unaware of the type of offense involved, and
7 j. the recording is damaged or destroyed, without bad
8 faith on the part of any person or entity in control
9 of the recording.

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

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12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/27/2019 - DO
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