

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO.636

By: Daniels

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5  
6 AS INTRODUCED

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

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

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

18 A. As used in this section:

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

21 2. "Electronic recording" means audio or audiovisual recording,  
22 provided, an audiovisual recording shall be used when feasible; and  
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1           3. "Place of detention" means a fixed location under the  
2 control of a law enforcement agency of this state where individuals  
3 are questioned about alleged crimes.

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

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

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

22           3. Requirements pertaining to the retention and storage of the  
23 electronic recording; and  
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1           4. A statement of exceptions to the requirement for  
2 electronically recording custodial interrogations under this  
3 section, including, but not limited to:

- 4           a. an equipment malfunction preventing electronic  
5                 recording of the interrogation in its entirety, and  
6                 replacement equipment is not immediately available,
- 7           b. the officer, in good faith, fails to record the  
8                 interrogation because the officer inadvertently fails  
9                 to operate the recording equipment properly, or  
10                without the officer's knowledge the recording  
11                equipment malfunctions or stops recording,
- 12           c. the suspect affirmatively asserts the desire to speak  
13                with officers without being recorded,
- 14           d. multiple interrogations are taking place  
15                simultaneously, exceeding the available electronic  
16                recording capacity,
- 17           e. the statement is made spontaneously and not in  
18                response to an interrogation question,
- 19           f. the statement is made during questioning that is  
20                routinely asked during the processing of an arrest of  
21                a suspect,
- 22           g. the statement is made at a time when the officer is  
23                unaware of the suspect's involvement in an offense  
24                covered by the policy,

- 1           h.    exigent circumstances make recording impractical,
- 2           i.    at the time of the interrogation, the officer, in good
- 3                faith, is unaware of the type of offense involved, and
- 4           j.    the recording is damaged or destroyed, without bad
- 5                faith on the part of any person or entity in control
- 6                of the recording.

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

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