

SECOND REGULAR SESSION

HOUSE BILL NO. 1799

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COLONA.

5460L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 590.700, RSMo, and to enact in lieu thereof one new section relating to custodial interrogations.

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

Section A. Section 590.700, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 590.700, to read as follows:

590.700. 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, arson in the first degree, forcible rape, forcible

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 sodomy, kidnapping, statutory rape in the first degree, statutory sodomy in the first degree, child
18 abuse, or child kidnapping shall be recorded [when feasible].

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

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

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

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

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

26 (5) If the recording equipment fails; or

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

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

32 5. If a law enforcement agency fails to comply with the provisions of this section, the
33 governor may withhold any state funds appropriated to the noncompliant law enforcement
34 agency if the governor finds that the agency did not act in good faith in attempting to comply
35 with the provisions of this section.

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

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

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