

By: Dutton

H.B. No. 360

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility of certain confessions in capital cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3, Article 38.22, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) No oral or sign language statement of an accused made as a result of custodial interrogation shall be admissible against the accused in a criminal proceeding unless:

(1) an electronic recording~~[, which may include motion picture, video tape, or other visual recording,~~] is made of the statement;

(2) prior to the statement but during the recording the accused is given the warning in Subsection (a) of Section 2 above and the accused knowingly, intelligently, and voluntarily waives any rights set out in the warning;

(3) the recording device was capable of making an accurate recording, the operator was competent, and the recording is accurate and has not been altered;

(4) all voices on the recording are identified; and

(5) not later than the 20th day before the date of the proceeding, the attorney representing the defendant is provided with a true, complete, and accurate copy of all recordings of the

1 defendant made under this article.

2 (f) If the defendant is charged with an offense other than a
3 capital offense the electronic recording required by Subsection (a)
4 may consist of an audio recording or a motion picture, video tape,
5 or other visual recording. If the defendant is charged with a
6 capital offense, the electronic recording must consist of a motion
7 picture, video tape, or other visual recording.

8 SECTION 2. This Act takes effect September 1, 2003, and
9 applies only to a statement made on or after the effective date of
10 this Act. A statement made before the effective date of this Act is
11 covered by the law in effect when the statement was made, and the
12 former law is continued in effect for that purpose.