

By: Dutton

H.B. No. 802

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the admissibility of certain confessions in capital  
3 cases.

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

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

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

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

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

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

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

22 (5) not later than the 20th day before the date of the  
23 proceeding, the attorney representing the defendant is provided  
24 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  
4 (a) may consist of an audio recording or a motion picture,  
5 videotape, or other visual recording. If the defendant is charged  
6 with a capital offense, the electronic recording must consist of a  
7 motion picture, videotape, or other visual recording.

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

13 SECTION 3. This Act takes effect September 1, 2007.