

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 969
By: West
Criminal Justice
5/8/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law does not require that statements made as the result of custodial interrogation be recorded on video. A video recording of the questions asked of a defendant and the answers given often prove to be the most reliable and accurate evidence that prosecutors have of a confession. This invaluable documentary evidence assists prosecutors across the state in presenting a case to a jury when a defendant attempts to alter, retract, excuse, or explain away a confession. A video recording of these statements also ensures fairness and transparency in the process for the public and the accused.

C.S.S.B. 969 amends current law relating to the electronic recording of certain statements made by an accused as a result of custodial interrogation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 38.22, Code of Criminal Procedure, by amending Section 1 and adding Section 9, as follows:

Sec. 1. Provides that in this article:

- (1) Defines "place of detention."
- (2) Creates this subdivision from existing text and makes a nonsubstantive change to the definition of "written statement of the accused."

Sec. 9. (a) Requires each law enforcement agency to adopt, implement, and amend as necessary a detailed written policy requiring that a visual recording by motion picture film, videotape, or other electronic means be made of any statement made as a result of a custodial interrogation if the custodial interrogation is conducted in a place of detention, or the custodial interrogation is conducted outside of a place of detention, and the law enforcement agency has, at the site of the interrogation, equipment described by this subsection that is capable of electronically recording the interrogation.

(b) Provides that evidence of compliance with a policy adopted under this section or with the minimum requirements of this article concerning the visual recording of a custodial interrogation is not a condition precedent to the admissibility of a defendant's statement under this article, another provision of this chapter, or another law.

(c) Provides that, notwithstanding Article 38.23 (Evidence Not to be Used) as that article relates to a violation of a state statute, a failure to make a visual recording of a statement made as a result of a custodial interrogation in substantial compliance with a policy adopted under this section or with the minimum

requirements of this article does not prohibit the admission of the statement in the courts of this state.

SECTION 2. Makes application of the change in law made by this Act prospective.

SECTION 3. Effective date: September 1, 2013.