

By: Collier

H.B. No. 4060

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the electronic recording of certain non-custodial
3 interrogations.

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

5 SECTION 1. Chapter 2, Code of Criminal Procedure, is
6 amended by adding Articles 2.32 and 2.33 to read as follows:

7 ELECTRONIC RECORDING OF NON-CUSTODIAL INTERROGATIONS.

8 (a) In this article:

9 (1) "Non-custodial interview" means an investigative
10 interview for the purpose of gathering information in which the
11 suspect is not in custody as defined in 38.01 of the Penal Code.

12 (2) "Electronic recording" means an audio or
13 audiovisual electronic recording that begins at the time the
14 person is interviewed, and continues until the time the
15 questioning ceases or Miranda rights are given.

16 (3) "Place of detention" means a police station or
17 other building that is a place of operation for a law enforcement
18 agency, including a municipal police department or county
19 sheriff's department, and is owned or operated by the law
20 enforcement agency for the purpose of detaining individuals in
21 connection with the suspected violation of a penal law. The term
22 does not include a courthouse.

23 (A) A non-custodial interview may occur in the
24 field or place of detention.

1 (B) A qualified law enforcement agency shall make
2 an electronic recording of all non-custodial interviews.

3 (C) An electronic recording of a non-custodial
4 interview that complies with this article is exempt from public
5 disclosure except as provided by Section 552.108, Government Code.

6 (D) A law enforcement agency otherwise required
7 to make an electronic recording of a non-custodial interview under
8 this article is excused from the duty to make the electronic
9 recording if:

10 (1) the accused refuses to respond to questioning or
11 cooperate in a non-custodial interview of which an electronic
12 recording is made, provided that:

13 (A) a contemporaneous recording of the refusal is
14 made; or

15 (B) the peace officer or agent of the law
16 enforcement agency conducting the interview attempts, in good
17 faith, to record the accused's refusal but the accused is unwilling
18 to have the refusal recorded, and the peace officer or agent
19 contemporaneously, in writing, documents the refusal;

20 (2) the statement was made spontaneously by the
21 accused and not in response to a question by a peace officer;

22 (3) the peace officer or agent of the law enforcement
23 agency conducting the non-custodial interview attempts, in good
24 faith, to record the interview, but the recording equipment does
25 not function and the officer or agent contemporaneously, in
26 writing, documents the reason why it is not possible to delay the
27 interview; or

1 SECTION 2. This Act takes effect September 1, 2017.