
Judiciary Committee

HB 2813

Title: An act relating to a recording of custodial interrogations pilot project.

Brief Description: Establishing the recording of custodial interrogations pilot project.

Sponsors: Representatives Flannigan, Mastin, Pettigrew, McCoy, Jarrett, Lantz, Moeller, Newhouse, Clibborn, Hudgins, O'Brien, Kirby and Chase.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Establishes a pilot project on recording of custodial interrogations.

Hearing Date: 1/29/04

Staff: Edie Adams (786-7180).

Background:

The Judiciary Committee established the Workgroup on Videotaping of Custodial Interrogations to discuss the desirability and feasibility of requiring law enforcement to record custodial interrogations. Legislation on this topic (HB 1932) was introduced last session, but did not receive a hearing.

Although there are various local jurisdictions throughout the country that have implemented policies on recording of custodial interrogations, there are currently only four states that require recording of interrogations: Alaska, Minnesota, Illinois and Texas. The recording requirements in Alaska and Minnesota stem from state supreme court decisions, while the requirements in Illinois and Texas are the result of legislative enactments. Texas' recording requirements only apply to oral or sign language statements, not written statements. Illinois' legislation only applies to homicide crimes. At least a dozen states have introduced legislation in 2003 requiring electronic recording of interrogations in some circumstances.

The Workgroup on Videotaping of Custodial Interrogations met on several occasions over the interim and developed the attached draft legislation establishing a pilot project on recording of custodial interrogations.

Under the Washington Privacy Act, law enforcement officers may make video and audio recordings of arrested persons if the following conditions are met:

- The arrested person is informed that the recording is being made during the recording;
- The recording includes an indication of the time it starts and stops;

- The arrested person is informed of his or her constitutional rights at the commencement of the recording; and
- The recordings are only used for valid police or court activities.

Summary of Bill:

A recording of custodial interrogations pilot project is created. The Criminal Justice Training Commission (Commission) is responsible for administering the pilot project. There are three identified purposes of the pilot project: (1) ensure the most accurate gathering of evidence for use in criminal proceedings; (2) increase accountability and credibility of all participants in the criminal justice system; and (3) potentially reduce or avoid costs to the criminal justice system.

The Commission must select for the pilot project no more than three law enforcement agencies that agree to participate. If possible, the Commission should select a police department in a small jurisdiction, a police department in a medium or large jurisdiction, and a county sheriff's office.

In administering the pilot project, the Commission must fund the purchase of digital audio and digital video recording equipment for use in the pilot project, establish procedures for the preservation of recordings and the methods for making recordings available to defendants, and develop a training program and provide training for law enforcement agencies participating in the pilot project.

The pilot project expires July 1, 2008. The Commission must submit a report to the Legislature by December 1, 2007 that includes the following information: (1) how often interrogations of arrested persons were recorded; (2) why any un-recorded interrogations were not recorded; (3) how many of the arrested persons were criminally charged; (4) how many criminal charges ended in a guilty plea; (5) the trial outcomes of persons whose interrogations were recorded and those whose interrogations were not recorded; (6) how many recorded interrogations were subject to a suppression hearing and were suppressed as a result of the suppression hearing; and (7) cost estimates for implementation and ongoing expenses of the pilot project.

Appropriation: None.

Fiscal Note: Requested on January 21, 2004.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.