

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Article 108C as follows:

6 (725 ILCS 5/Article 108C heading new)

7 ARTICLE 108C. CUSTODIAL INTERROGATIONS IN CAPITAL CASES

8 (725 ILCS 5/ 108C-1 new)

9 Sec. 108C-1. Videotaping of custodial interrogations in
10 capital cases.

11 (a) In this Section:

12 "Written statement of a defendant" means a statement
13 signed by the defendant or a statement made by the defendant
14 in his or her own handwriting or, if the defendant is unable
15 to write, a statement bearing his or her mark, when the mark
16 has been witnessed by a person other than a peace officer.

17 "Capital trial" means the trial to determine the
18 defendant's guilt for an offense for which the death sentence
19 is authorized and prior to which the State's Attorney has not
20 filed a certificate indicating he or she will not seek the
21 death penalty or stated on the record in open court that the
22 death penalty will not be sought.

23 "Custodial interrogation" means any interrogation during
24 which the person being interrogated is not free to leave and
25 a question is asked that is designed to elicit an
26 incriminating response.

27 "Place of detention" means a facility under the control
28 of a law enforcement agency.

29 (b) An oral, written, or sign language statement of a

1 defendant, made as a result of a custodial interrogation
2 conducted at a police station or other place of detention on
3 or after the effective date of this amendatory Act of the
4 92nd General Assembly is inadmissible as evidence against the
5 defendant in any capital trial, unless:

6 (1) an electronic video and audio recording is made
7 of the custodial interrogation;

8 (2) before the custodial interrogation but during
9 the recording, the defendant is given the following
10 warnings:

11 (A) that the defendant has the right to remain
12 silent and not make any statement at all, and that
13 any statement he or she makes may be used against
14 him or her at his or her trial;

15 (B) that any statement the defendant makes may
16 be used as evidence against him or her in court;

17 (C) that the defendant has the right to have
18 an attorney present to advise him or her prior to
19 and during any questioning; and

20 (D) that if the defendant is unable to employ
21 an attorney, he or she has the right to have an
22 attorney appointed to advise him or her prior to and
23 during any questioning;

24 (3) prior to the statement but during the
25 recording, the defendant waives all rights described in
26 paragraph (2);

27 (4) the recording is accurate and has not been
28 altered;

29 (5) all voices on the recording are identifiable;
30 and

31 (6) not later than the 20th day before the date of
32 any criminal proceeding at which the statement is to be
33 admitted as evidence against the defendant, the attorney
34 representing the defendant is permitted to review a true,

1 complete, and accurate copy of all recordings of the
2 defendant made under this Section.

3 (c) Every electronic, video, and audio recording of any
4 interrogation of a defendant at a police station or other
5 place of detention must be preserved until such time as the
6 defendant's adjudication for any offense relating to the
7 statement is final and all direct, post conviction and habeas
8 corpus appeals are exhausted, or the prosecution of such
9 offenses is barred by law.

10 (d) If the defendant is a deaf person, the defendant's
11 statements under subsection (b) of this Section are presumed
12 to be inadmissible against the defendant unless the warnings
13 in subsection (b) are interpreted to the defendant by an
14 interpreter who is qualified and certified by the Registry of
15 Interpreters for the Deaf.

16 (e) If the defendant can prove, by a preponderance of
17 the evidence, that, after the effective date of this Section,
18 he or she was subjected to a custodial interrogation at a
19 police station or other place of detention prior to a
20 custodial interrogation relating to that offense that was
21 recorded pursuant to this Section, and if that prior
22 custodial interrogation at a police station or other place of
23 detention was not recorded as required by this Section, then
24 any statements made by the defendant during or following that
25 non-recorded custodial interrogation, even if otherwise in
26 compliance with this Section, are inadmissible in any capital
27 trial against the defendant.