

1 AN ACT in relation to interrogations.

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

4 Section 5. The Illinois Criminal Justice Information Act
5 is amended by adding Section 7.5 as follows:

6 (20 ILCS 3930/7.5 new)

7 Sec. 7.5. Grants for electronic recording equipment.

8 (a) The Authority, from appropriations made to it for
9 that purpose, shall make grants to local law enforcement
10 agencies for the purpose of purchasing equipment for
11 electronic recording of interrogations.

12 (b) The Authority shall promulgate rules to implement
13 this Section.

14 Section 10. The Illinois Police Training Act is amended
15 by adding Section 10.2 as follows:

16 (50 ILCS 705/10.2 new)

17 Sec. 10.2. Training of police officers to conduct
18 electronic interrogations. From appropriations made to it
19 for that purpose, the Board shall initiate, administer, and
20 conduct training programs for permanent police officers,
21 part-time police officers, and recruits on the methods and
22 technical aspects of conducting electronic recordings of
23 interrogations.

24 Section 15. The Juvenile Court Act of 1987 is amended by
25 adding Section 5-401.5 as follows:

26 (705 ILCS 405/5-401.5 new)

27 Sec. 5-401.5. When statements by minor may be used.

1 (a) In this Section, "custodial interrogation" means any
2 interrogation (i) during which a reasonable person in the
3 subject's position, innocent of any crime, would consider
4 himself or herself to be in custody and (ii) during which a
5 question is asked that is reasonably likely to elicit an
6 incriminating response.

7 In this Section, "electronic recording" includes motion
8 picture, audiotape, or videotape.

9 In this Section, "place of detention" means a building
10 under the control of a law enforcement agency at which
11 persons are or may be held in detention in connection with
12 criminal charges against those persons or allegations that
13 those persons are delinquent minors.

14 (b) An oral or sign language statement of a minor who, at
15 the time of the commission of the offense was under the age
16 of 17 years, made as a result of a custodial interrogation
17 conducted at a police station or other place of detention on
18 or after the effective date of this amendatory Act of the
19 92nd General Assembly shall be presumed to be inadmissible as
20 evidence against the minor in any criminal proceeding or
21 juvenile court proceeding, for an act that if committed by an
22 adult would be brought under Section 9-1, 9-1.2, 9-2, 9-2.1,
23 9-3, 9-3.2, 9-3.3, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
24 the Criminal Code of 1961 unless:

25 (1) an electronic recording is made of the
26 custodial interrogation;

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

29 (3) not later than the 20th day before the date of
30 any proceeding in criminal or juvenile court at which the
31 statement is to be admitted as evidence against the
32 minor, the attorney representing the minor is permitted
33 to review a true, complete, and accurate copy of all
34 recordings of the minor made under this Section.

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

8 (d) If the court finds, by a preponderance of the
9 evidence, that the minor was subjected to a custodial
10 interrogation at a police station or other place of detention
11 prior to the custodial interrogation at a police station or
12 other place of detention and after the effective date of this
13 amendatory Act of the 92nd General Assembly that was the
14 subject of the electronic recording, and if that prior
15 custodial interrogation at a police station or other place of
16 detention relating to the same offense was not recorded as
17 required by this Section, then any statements made by the
18 minor during or following that non-recorded custodial
19 interrogation at a police station or other place of
20 detention, even if otherwise in compliance with this Section,
21 are presumed to be inadmissible in any criminal proceeding or
22 juvenile court proceeding against the minor except for the
23 purposes of impeachment.

24 (e) Nothing in this Section precludes the admission (i)
25 of a statement made by the minor in open court in any
26 criminal proceeding or juvenile court proceeding, before a
27 grand jury, or at a preliminary hearing, (ii) of a statement
28 made during a custodial interrogation that was not recorded
29 as required by this Section because electronic recording was
30 not feasible, (iii) of a voluntary statement, whether or not
31 the result of a custodial interrogation, that has a bearing
32 on the credibility of the accused as a witness, (iv) of a
33 statement made under exigent circumstances, (v) of a
34 spontaneous statement that is not made in response to a

1 question, (vi) of a statement made after questioning that is
2 routinely asked during the processing of the arrest of the
3 suspect, (vii) of a statement made during a custodial
4 interrogation by a suspect who requests, prior to making the
5 statement, to respond to the interrogator's questions only if
6 an electronic recording is not made of the statement,
7 provided that an electronic recording is made of the
8 statement of agreeing to respond to the interrogator's
9 question, only if a recording is not made of the statement,
10 (viii) of a statement made during a custodial interrogation
11 that is conducted out-of-state, (ix) of a statement made by a
12 suspect who is being interrogated simultaneously with other
13 suspects concerning the same offense, but only to the extent
14 that no electric recording equipment is available because it
15 is being utilized for the interrogations of the other
16 suspects for the same offense, (x) of a statement given at a
17 time when the interrogators are unaware that a death or an
18 act of sexual assault or sexual conduct has in fact occurred,
19 or (xi) of any other statement that may be admissible under
20 law. The State shall bear the burden of proving, by a
21 preponderance of the evidence, that one of the exceptions
22 described in this subsection (e) is applicable. Nothing in
23 this Section precludes the admission of a statement,
24 otherwise inadmissible under this Section, that is used only
25 for impeachment and not as substantive evidence.

26 (f) The presumption of inadmissibility of a statement
27 made by a suspect at a custodial interrogation may be
28 overcome by a preponderance of the evidence that the
29 statement was voluntarily given and is reliable, based on the
30 totality of the circumstances.

31 Section 20. The Criminal Code of 1961 is amended by
32 changing Section 14-3 as follows:

1 (720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

2 Sec. 14-3. Exemptions. The following activities shall
3 be exempt from the provisions of this Article:

4 (a) Listening to radio, wireless and television
5 communications of any sort where the same are publicly made;

6 (b) Hearing conversation when heard by employees of any
7 common carrier by wire incidental to the normal course of
8 their employment in the operation, maintenance or repair of
9 the equipment of such common carrier by wire so long as no
10 information obtained thereby is used or divulged by the
11 hearer;

12 (c) Any broadcast by radio, television or otherwise
13 whether it be a broadcast or recorded for the purpose of
14 later broadcasts of any function where the public is in
15 attendance and the conversations are overheard incidental to
16 the main purpose for which such broadcasts are then being
17 made;

18 (d) Recording or listening with the aid of any device to
19 any emergency communication made in the normal course of
20 operations by any federal, state or local law enforcement
21 agency or institutions dealing in emergency services,
22 including, but not limited to, hospitals, clinics, ambulance
23 services, fire fighting agencies, any public utility,
24 emergency repair facility, civilian defense establishment or
25 military installation;

26 (e) Recording the proceedings of any meeting required to
27 be open by the Open Meetings Act, as amended;

28 (f) Recording or listening with the aid of any device to
29 incoming telephone calls of phone lines publicly listed or
30 advertised as consumer "hotlines" by manufacturers or
31 retailers of food and drug products. Such recordings must be
32 destroyed, erased or turned over to local law enforcement
33 authorities within 24 hours from the time of such recording
34 and shall not be otherwise disseminated. Failure on the part

1 of the individual or business operating any such recording or
2 listening device to comply with the requirements of this
3 subsection shall eliminate any civil or criminal immunity
4 conferred upon that individual or business by the operation
5 of this Section;

6 (g) With prior notification to the State's Attorney of
7 the county in which it is to occur, recording or listening
8 with the aid of any device to any conversation where a law
9 enforcement officer, or any person acting at the direction of
10 law enforcement, is a party to the conversation and has
11 consented to it being intercepted or recorded under
12 circumstances where the use of the device is necessary for
13 the protection of the law enforcement officer or any person
14 acting at the direction of law enforcement, in the course of
15 an investigation of a forcible felony, a felony violation of
16 the Illinois Controlled Substances Act, a felony violation of
17 the Cannabis Control Act, or any "streetgang related" or
18 "gang-related" felony as those terms are defined in the
19 Illinois Streetgang Terrorism Omnibus Prevention Act. Any
20 recording or evidence derived as the result of this exemption
21 shall be inadmissible in any proceeding, criminal, civil or
22 administrative, except (i) where a party to the conversation
23 suffers great bodily injury or is killed during such
24 conversation, or (ii) when used as direct impeachment of a
25 witness concerning matters contained in the interception or
26 recording. The Director of the Department of State Police
27 shall issue regulations as are necessary concerning the use
28 of devices, retention of tape recordings, and reports
29 regarding their use;

30 (h) Recordings made simultaneously with a video
31 recording of an oral conversation between a peace officer,
32 who has identified his or her office, and a person stopped
33 for an investigation of an offense under the Illinois Vehicle
34 Code;

1 (i) Recording of a conversation made by or at the
2 request of a person, not a law enforcement officer or agent
3 of a law enforcement officer, who is a party to the
4 conversation, under reasonable suspicion that another party
5 to the conversation is committing, is about to commit, or has
6 committed a criminal offense against the person or a member
7 of his or her immediate household, and there is reason to
8 believe that evidence of the criminal offense may be obtained
9 by the recording; and

10 (j) The use of a telephone monitoring device by either
11 (1) a corporation or other business entity engaged in
12 marketing or opinion research or (2) a corporation or other
13 business entity engaged in telephone solicitation, as defined
14 in this subsection, to record or listen to oral telephone
15 solicitation conversations or marketing or opinion research
16 conversations by an employee of the corporation or other
17 business entity when:

18 (i) the monitoring is used for the purpose of
19 service quality control of marketing or opinion research
20 or telephone solicitation, the education or training of
21 employees or contractors engaged in marketing or opinion
22 research or telephone solicitation, or internal research
23 related to marketing or opinion research or telephone
24 solicitation; and

25 (ii) the monitoring is used with the consent of at
26 least one person who is an active party to the marketing
27 or opinion research conversation or telephone
28 solicitation conversation being monitored.

29 No communication or conversation or any part, portion, or
30 aspect of the communication or conversation made, acquired,
31 or obtained, directly or indirectly, under this exemption
32 (j), may be, directly or indirectly, furnished to any law
33 enforcement officer, agency, or official for any purpose or
34 used in any inquiry or investigation, or used, directly or

1 indirectly, in any administrative, judicial, or other
2 proceeding, or divulged to any third party.

3 When recording or listening authorized by this subsection
4 (j) on telephone lines used for marketing or opinion research
5 or telephone solicitation purposes results in recording or
6 listening to a conversation that does not relate to marketing
7 or opinion research or telephone solicitation; the person
8 recording or listening shall, immediately upon determining
9 that the conversation does not relate to marketing or opinion
10 research or telephone solicitation, terminate the recording
11 or listening and destroy any such recording as soon as is
12 practicable.

13 Business entities that use a telephone monitoring or
14 telephone recording system pursuant to this exemption (j)
15 shall provide current and prospective employees with notice
16 that the monitoring or recordings may occur during the course
17 of their employment. The notice shall include prominent
18 signage notification within the workplace.

19 Business entities that use a telephone monitoring or
20 telephone recording system pursuant to this exemption (j)
21 shall provide their employees or agents with access to
22 personal-only telephone lines which may be pay telephones,
23 that are not subject to telephone monitoring or telephone
24 recording.

25 For the purposes of this subsection (j), "telephone
26 solicitation" means a communication through the use of a
27 telephone by live operators:

- 28 (i) soliciting the sale of goods or services;
- 29 (ii) receiving orders for the sale of goods or
30 services;
- 31 (iii) assisting in the use of goods or services; or
- 32 (iv) engaging in the solicitation, administration,
33 or collection of bank or retail credit accounts.

34 For the purposes of this subsection (j), "marketing or

1 opinion research" means a marketing or opinion research
2 interview conducted by a live telephone interviewer engaged
3 by a corporation or other business entity whose principal
4 business is the design, conduct, and analysis of polls and
5 surveys measuring the opinions, attitudes, and responses of
6 respondents toward products and services, or social or
7 political issues, or both.

8 (k) Electronic recordings, including but not limited to,
9 a motion picture, videotape, or other visual and audio
10 recording, made of a custodial interrogation of an individual
11 at a police station or other place of detention by a law
12 enforcement officer under Section 5-401.5 of the Juvenile
13 Court Act of 1987 or Section 103-2.1 of the Code of Criminal
14 Procedure of 1963.

15 (Source: P.A. 91-357, eff. 7-29-99.)

16 Section 25. The Code of Criminal Procedure of 1963 is
17 amended by adding Section 103-2.1 as follows:

18 (725 ILCS 5/103-2.1 new)

19 Sec. 103-2.1. When statements by accused may be used.

20 (a) In this Section, "custodial interrogation" means any
21 interrogation during which (i) a reasonable person in the
22 subject's position, innocent of any crime, would consider
23 himself or herself to be in custody and (ii) during which a
24 question is asked that is reasonably likely to elicit an
25 incriminating response.

26 In this Section, "place of detention" means a building
27 under the control of a law enforcement agency at which
28 persons are or may be held in detention in connection with
29 criminal charges against those persons.

30 In this Section, "electronic recording" includes motion
31 picture, audiotape, or videotape.

32 (b) An oral or sign language statement of an accused made

1 as a result of a custodial interrogation at a police station
2 or other place of detention shall be presumed to be
3 inadmissible as evidence against the accused in any criminal
4 proceeding brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3,
5 9-3.2, 9-3.3, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the
6 Criminal Code of 1961 unless:

7 (1) an electronic recording is made of the custodial
8 interrogation;

9 (2) the recording is accurate and has not been
10 altered; and

11 (3) not later than the 20th day before the date of
12 any criminal proceeding at which the statement is to be
13 offered as evidence against the defendant, the attorney
14 representing the defendant is permitted to review a true,
15 complete, and accurate copy of all recordings of the
16 defendant made under this Section.

17 (c) Every electronic recording of any statement made by
18 an accused during a custodial interrogation at a police
19 station or other place of detention must be preserved until
20 such time as the defendant's conviction for any offense
21 relating to the statement is final and all direct and habeas
22 corpus appeals are exhausted, or the prosecution of such
23 offenses is barred by law.

24 (d) If the court finds, by a preponderance of the
25 evidence, that the defendant was subjected to a custodial
26 interrogation at a police station or other place of detention
27 prior to the custodial interrogation at a police station or
28 other place of detention and after the effective date of this
29 amendatory Act of the 92nd General Assembly that was the
30 subject of the electronic recording, and if that prior
31 custodial interrogation at a police station or other place of
32 detention relating to the same offense was not recorded as
33 required by this Section, then any statements made by the
34 defendant during or following that non-recorded custodial

1 interrogation at a police station or other place of
2 detention, even if otherwise in compliance with this Section,
3 are presumed to be inadmissible in any criminal proceeding
4 against the defendant except for the purposes of impeachment.

5 (e) Nothing in this Section precludes the admission (i)
6 of a statement made by the accused in open court at his or
7 her trial, before a grand jury, or at a preliminary hearing,
8 (ii) of a statement made during a custodial interrogation
9 that was not recorded as required by this Section, because
10 electronic recording was not feasible, (iii) of a voluntary
11 statement, whether or not the result of a custodial
12 interrogation, that has a bearing on the credibility of the
13 accused as a witness, (iv) of a statement made under exigent
14 circumstances, (v) of a spontaneous statement that is not
15 made in response to a question, (vi) of a statement made
16 after questioning that is routinely asked during the
17 processing of the arrest of the suspect, (vii) of a statement
18 made during a custodial interrogation by a suspect who
19 requests, prior to making the statement, to respond to the
20 interrogator's questions only if an electronic recording is
21 not made of the statement, provided that an electronic
22 recording is made of the statement of agreeing to respond to
23 the interrogator's question, only if a recording is not made
24 of the statement, (viii) of a statement made during a
25 custodial interrogation that is conducted out-of-state, (ix)
26 of a statement made by a suspect who is being interrogated
27 simultaneously with other suspects concerning the same
28 offense, but only to the extent that no electronic recording
29 equipment (video or audio) is available because it is being
30 utilized for the interrogations of the other suspects for the
31 same offense, (x) of a statement given at a time when the
32 interrogators are unaware that a death or an act of sexual
33 assault or sexual conduct has in fact occurred, or (xi) of
34 any other statement that may be admissible under law. The

1 State shall bear the burden of proving, by a preponderance of
2 the evidence, that one of the exceptions described in this
3 subsection (e) is applicable. Nothing in this Section
4 precludes the admission of a statement, otherwise
5 inadmissible under this Section, that is used only for
6 impeachment and not as substantive evidence.

7 (f) The presumption of inadmissibility of a statement
8 made by a suspect at a custodial interrogation may be
9 overcome by a preponderance of the evidence that the
10 statement was voluntarily given and is reliable, based on the
11 totality of the circumstances.

12 Section 95. The State Mandates Act is amended by adding
13 Section 8.27 as follows:

14 (30 ILCS 805/8.27 new)

15 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
16 and 8 of this Act, no reimbursement by the State is required
17 for the implementation of any mandate created by this
18 amendatory Act of the 92nd General Assembly.

19 Section 99. Effective date. Sections 5, 10, 20, and 95
20 of this Act and this Section 99 take effect upon becoming
21 law. Sections 15 and 25 of this Act take effect 2 years
22 after becoming law.