



SPONSOR: Rep. Minor-Brown & Rep. Dorsey Walker &
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Reps. Baumbach, Griffith, K. Johnson, Kowalko, Lynn,
Morrison; Sens. Gay, Lopez, Townsend

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 419

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CUSTODIAL INTERROGATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 20, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 Chapter 20. ~~Uniform Electronic Recordation of Custodial Interrogations. Interrogations Act.~~

4 Subchapter 1. Uniform Electronic Recordation of Custodial Interrogations Act

5 § 2001. Short title.

6 This ~~chapter~~ subchapter may be cited as the “Uniform Electronic Recordation of Custodial Interrogations Act.”

7 § 2002. Definitions.

8 For purposes of this subchapter: ~~chapter~~:

9 § 2004. Notice and consent not required.

10 Notwithstanding Chapter 24 of this title, a law enforcement officer conducting a custodial interrogation is not
11 required to obtain consent to electronic recording from the individual being interrogated or to inform the individual that an
12 electronic recording is being made of the interrogation. This ~~chapter~~ subchapter does not permit a law enforcement officer
13 or a law enforcement agency to record a private communication between an individual and the individual’s lawyer or a
14 child and the child’s parent or guardian.

15 § 2013. Handling and preserving an electronic recording.

16 Each law enforcement agency in this State shall establish and enforce procedures to ensure that the electronic
17 recording of all or part of a custodial interrogation and a report or other document required to be prepared under this ~~chapter~~
18 subchapter is identified, accessible, and preserved consistent with the law of this State governing the preservation of
19 evidence in criminal and delinquency cases.

20 § 2014. Rules relating to electronic recording.

21 (a) The Council on Police Training shall adopt rules to implement this ~~chapter~~, subchapter, which each law
22 enforcement agency that is a governmental entity of this State shall enforce.

23 (b) The rules adopted under subsection (a) of this section must address all of the following topics:

24 (5) A supervisory system expressly imposing on individuals in specific positions a duty to ensure adequate
25 staffing, education, training, and material resources to implement this ~~chapter~~ subchapter.

26 § 2015. Limitation of liability.

27 (a) A law enforcement agency that is a governmental entity in this State which has implemented procedures to
28 enforce the rules adopted under § 2014 of this title and ensure compliance with this ~~chapter~~ subchapter is not subject to civil
29 liability for damages arising from a violation of this ~~chapter~~ subchapter.

30 (b) This ~~chapter~~ subchapter does not create a right of action against a law enforcement officer.

31 § 2016. No right to electronic recording or transcript.

32 (a) This ~~chapter~~ subchapter does not create a right of an individual to require a custodial interrogation to be
33 recorded electronically.

34 (b) This ~~chapter~~ subchapter does not require preparation of a transcript of an electronic recording of a custodial
35 interrogation.

36 Subchapter 2. Deceptive tactics in interrogations of persons under 18 years of age.

37 § 2021. Definitions.

38 As used in this subchapter:

39 (1) “Custodial interrogation” means as defined in § 2002 of this chapter.

40 (2) “Deceptive tactics” means the knowing communication by a law enforcement officer of false statements
41 about evidence or false or misleading promises of leniency.

42 (3) “Law enforcement officer” means as defined in § 2002 of this chapter.

43 § 2022. Deceptive tactics prohibited.

44 (a) Deceptive tactics in a custodial interrogation of a person under 18 years of age are prohibited.

45 (b) A statement of a person, who at the time of the commission of an offense was under 18 years of age, is
46 inadmissible in any criminal or delinquency court proceeding if it was made during a custodial interrogation in which
47 deceptive tactics were used.

SYNOPSIS

Citing the increasing number of false confessions recorded by the National Registry of Exonerations and recent science around adolescent brain development, several states across the nation have passed legislation to ban the use of deceptive interrogation techniques on juveniles. Deceptive tactics is limited to the knowing use of misleading statements about evidence or communications of false promises of leniency to extract a confession or other incriminating evidence from a youth suspected of breaking the law. To date, Delaware has yet to have a wrongful conviction case involving a false confession but according to groups such as the Innocence Project, wrongful convictions can often take decades to be revealed. Three other states, Illinois, Utah and Oregon, have passed similar legislation. Additional states, including Colorado and California, are currently considering similar legislation.

This Act mirrors efforts in other states by prohibiting the knowing use of false statements about evidence, or false or misleading promises of leniency during custodial interrogations of persons under the age of 18. Any statement elicited from a person in violation of this section is inadmissible in any subsequent juvenile delinquency or criminal court proceeding.