

HOUSE BILL No. 6183

May 28, 2008, Introduced by Reps. Young and Condino and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding section 7 to chapter III.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER III

SEC. 7. (1) A LAW ENFORCEMENT OFFICIAL SHALL NOT QUESTION AN
INDIVIDUAL WHO IS IN CUSTODY REGARDING HIS OR HER ALLEGED
INVOLVEMENT IN THE COMMISSION OF ANY CRIME UNLESS THE QUESTIONING
SESSION IS ELECTRONICALLY RECORDED IN ITS ENTIRETY.

(2) A LAW ENFORCEMENT OFFICIAL MAY MAKE AN IN-CUSTODY
ELECTRONIC RECORDING WITHOUT THE KNOWLEDGE OR CONSENT OF THE
INDIVIDUAL BEING QUESTIONED.

(3) A DEFENDANT MAY CHALLENGE THE ADMISSIBILITY OF EVIDENCE

1 OBTAINED IN VIOLATION OF SUBSECTION (1) AT ANY TIME BEFORE THE DATE
2 OF TRIAL BY PROVIDING 48 HOURS' NOTICE TO THE PROSECUTION OF HIS OR
3 HER INTENT TO SEEK EXCLUSION OF THAT EVIDENCE FOR FAILING TO RECORD
4 THE SESSION.

5 (4) A STATEMENT OBTAINED IN VIOLATION OF SUBSECTION (1) OR
6 EVIDENCE OBTAINED AS A RESULT OF THAT STATEMENT SHALL BE EXCLUDED
7 AS EVIDENCE IN A CRIMINAL PROCEEDING ABSENT A SHOWING OF GOOD CAUSE
8 BY THE PARTY SEEKING TO INTRODUCE THE EVIDENCE FOR FAILING TO
9 RECORD THE SESSION.

10 (5) AN ELECTRONIC RECORDING REQUIRED UNDER THIS SECTION SHALL
11 BE PRESERVED UNTIL SUCH TIME AS THE DEFENDANT'S CONVICTION FOR ANY
12 OFFENSE RELATING TO THE STATEMENT IS FINAL AND ALL DIRECT AND
13 HABEAS CORPUS APPEALS ARE EXHAUSTED, OR THE PROSECUTION OF THAT
14 OFFENSE IS BARRED BY LAW.

15 (6) AS USED IN THIS SECTION:

16 (A) "ELECTRONICALLY RECORDED" MEANS RECORDED BY USE OF A
17 MOTION PICTURE, AUDIOTAPE, VIDEOTAPE, DIGITAL RECORDING, OR OTHER
18 SIMILAR TECHNOLOGY.

19 (B) "LAW ENFORCEMENT OFFICIAL" MEANS ANY OF THE FOLLOWING:

20 (i) A PEACE OFFICER.

21 (ii) THE ATTORNEY GENERAL OR HIS OR HER ASSISTANT, A COUNTY
22 PROSECUTING ATTORNEY OR HIS OR HER ASSISTANT, OR AN ATTORNEY
23 REPRESENTING A POLITICAL SUBDIVISION OF THIS STATE OR HIS OR HER
24 ASSISTANT.

25 (iii) A PERSON ACTING UPON THE DIRECTION OF AN INDIVIDUAL
26 DESCRIBED IN SUBPARAGRAPH (i) OR (ii).

27 (C) "PEACE OFFICER" MEANS ANY OF THE FOLLOWING:

1 (i) A POLICE OFFICER OF THIS STATE OR A POLITICAL SUBDIVISION
2 OF THIS STATE.

3 (ii) A COUNTY SHERIFF OR HIS OR HER DEPUTY.

4 (iii) A PUBLIC SAFETY OFFICER OF A COLLEGE OR UNIVERSITY.

5 (iv) A CONSERVATION OFFICER OF THE DEPARTMENT OF NATURAL
6 RESOURCES OR THE DEPARTMENT OF ENVIRONMENTAL QUALITY.