



Sen. Kwame Raoul

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1 AMENDMENT TO SENATE BILL 1006

2 AMENDMENT NO. _____. Amend Senate Bill 1006 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Criminal Justice Information Act
5 is amended by adding Section 7.7 as follows:

6 (20 ILCS 3930/7.7 new)

7 Sec. 7.7. Electronic Recordings Database.

8 (a) Subject to appropriation, an Electronic Recordings
9 Database is created within the Illinois Criminal Justice
10 Information Authority.

11 (b) The Illinois Criminal Justice Information Authority
12 shall collect and retain in the Electronic Recordings Database
13 all information on the electronic recording of custodial
14 interrogations under Section 5-401.5 of the Juvenile Court Act
15 of 1987 and Section 103-2.1 of the Code of Criminal Procedure
16 of 1963. The Electronic Recordings Database shall serve as a

1 repository for all of the foregoing collected information.

2 (c) The Illinois Criminal Justice Information Authority
3 shall develop administrative rules to provide for the
4 coordination and collection of information relating to the
5 Electronic Recordings Database from all law enforcement
6 agencies in this State.

7 (d) The Illinois Criminal Justice Information Authority
8 shall develop procedures and protocols for the submission of
9 information to the Database in conjunction with the agencies
10 submitting information.

11 Section 10. The Juvenile Court Act of 1987 is amended by
12 changing Section 5-401.5 as follows:

13 (705 ILCS 405/5-401.5)

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

15 (a) In this Section, "custodial interrogation" means any
16 interrogation (i) during which a reasonable person in the
17 subject's position would consider himself or herself to be in
18 custody and (ii) during which a question is asked that is
19 reasonably likely to elicit an incriminating response.

20 In this Section, "electronic recording" includes motion
21 picture, audiotape, videotape, or digital recording.

22 In this Section, "place of detention" means a building or a
23 police station that is a place of operation for a municipal
24 police department or county sheriff department or other law

1 enforcement agency at which persons are or may be held in
2 detention in connection with criminal charges against those
3 persons or allegations that those persons are delinquent
4 minors.

5 (b) An oral, written, or sign language statement of a minor
6 who, at the time of the commission of the offense was under the
7 age of 17 years, made as a result of a custodial interrogation
8 conducted at a police station or other place of detention on or
9 after the effective date of this amendatory Act of the 93rd
10 General Assembly shall be presumed to be inadmissible as
11 evidence against the minor in any criminal proceeding or
12 juvenile court proceeding, for an act that if committed by an
13 adult would be brought under Section 9-1, 9-1.2, 9-2, 9-2.1,
14 9-3, 9-3.2, or 9-3.3, of the Criminal Code of 1961 or the
15 Criminal Code of 2012, or under clause (d)(1)(F) of Section
16 11-501 of the Illinois Vehicle Code unless:

17 (1) an electronic recording is made of the custodial
18 interrogation; and

19 (2) the recording is substantially accurate and not
20 intentionally altered.

21 (b-1) Electronic recordings may be made of statements of a
22 minor regarding offenses in addition to those enumerated in
23 subsection (b).

24 (c) Every electronic recording prepared ~~required~~ under
25 this Section must be preserved until such time as the minor's
26 adjudication for any offense relating to the statement is final

1 and all direct and habeas corpus appeals are exhausted, or the
2 prosecution of such offenses is barred by law.

3 (d) If the court finds, by a preponderance of the evidence,
4 that the minor was subjected to a custodial interrogation in
5 violation of subsection (b) ~~this Section~~, then any statements
6 made by the minor during or following that non-recorded
7 custodial interrogation, even if otherwise in compliance with
8 this Section, are presumed to be inadmissible in any criminal
9 proceeding or juvenile court proceeding against the minor
10 except for the purposes of impeachment.

11 (e) Nothing in this Section precludes the admission (i) of
12 a statement made by the minor in open court in any criminal
13 proceeding or juvenile court proceeding, before a grand jury,
14 or at a preliminary hearing, (ii) of a statement made during a
15 custodial interrogation that was not recorded as required by
16 this Section because electronic recording was not feasible,
17 (iii) of a voluntary statement, whether or not the result of a
18 custodial interrogation, that has a bearing on the credibility
19 of the accused as a witness, (iv) of a spontaneous statement
20 that is not made in response to a question, (v) of a statement
21 made after questioning that is routinely asked during the
22 processing of the arrest of the suspect, (vi) of a statement
23 made during a custodial interrogation by a suspect who
24 requests, prior to making the statement, to respond to the
25 interrogator's questions only if an electronic recording is not
26 made of the statement, provided that an electronic recording is

1 made of the statement of agreeing to respond to the
2 interrogator's question, only if a recording is not made of the
3 statement, (vii) of a statement made during a custodial
4 interrogation that is conducted out-of-state, (viii) of a
5 statement given at a time when the interrogators are unaware
6 that a death has in fact occurred, or (ix) of any other
7 statement that may be admissible under law. The State shall
8 bear the burden of proving, by a preponderance of the evidence,
9 that one of the exceptions described in this subsection (e) is
10 applicable. Nothing in this Section precludes the admission of
11 a statement, otherwise inadmissible under this Section, that is
12 used only for impeachment and not as substantive evidence.
13 Nothing in this Section precludes the admission of a statement
14 in a criminal court proceeding or juvenile court proceeding
15 involving an offense other than those enumerated in subsection
16 (b).

17 (f) The presumption of inadmissibility of a statement made
18 by a suspect at a custodial interrogation at a police station
19 or other place of detention may be overcome by a preponderance
20 of the evidence that the statement was voluntarily given and is
21 reliable, based on the totality of the circumstances.

22 (g) Any electronic recording of any statement made by a
23 minor during a custodial interrogation that is compiled by any
24 law enforcement agency ~~as required by this Section for the~~
25 ~~purposes of fulfilling the requirements of this Section~~ shall
26 be confidential and exempt from public inspection and copying,

1 as provided under Section 7 of the Freedom of Information Act,
2 and the information shall not be transmitted to anyone except
3 as needed to comply with this Section.

4 (g-1) All law enforcement agencies shall submit monthly
5 reports to the Electronic Recordings Database in the Illinois
6 Criminal Justice Information Authority regarding any
7 electronic recordings made under this Section in a form and in
8 a manner as may be prescribed by rules adopted by the Illinois
9 Criminal Justice Information Authority.

10 (h) A statement, admission, confession, or incriminating
11 information made by or obtained from a minor related to the
12 instant offense, as part of any behavioral health screening,
13 assessment, evaluation, or treatment, whether or not
14 court-ordered, shall not be admissible as evidence against the
15 minor on the issue of guilt only in the instant juvenile court
16 proceeding. The provisions of this subsection (h) are in
17 addition to and do not override any existing statutory and
18 constitutional prohibition on the admission into evidence in
19 delinquency proceedings of information obtained during
20 screening, assessment, or treatment.

21 (Source: P.A. 96-1251, eff. 1-1-11; 97-1150, eff. 1-25-13.)

22 Section 15. The Criminal Code of 2012 is amended by
23 changing Section 14-3 as follows:

24 (720 ILCS 5/14-3)

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

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

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

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

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

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

25 (f) Recording or listening with the aid of any device to
26 incoming telephone calls of phone lines publicly listed or

1 advertised as consumer "hotlines" by manufacturers or
2 retailers of food and drug products. Such recordings must be
3 destroyed, erased or turned over to local law enforcement
4 authorities within 24 hours from the time of such recording and
5 shall not be otherwise disseminated. Failure on the part of the
6 individual or business operating any such recording or
7 listening device to comply with the requirements of this
8 subsection shall eliminate any civil or criminal immunity
9 conferred upon that individual or business by the operation of
10 this Section;

11 (g) With prior notification to the State's Attorney of the
12 county in which it is to occur, recording or listening with the
13 aid of any device to any conversation where a law enforcement
14 officer, or any person acting at the direction of law
15 enforcement, is a party to the conversation and has consented
16 to it being intercepted or recorded under circumstances where
17 the use of the device is necessary for the protection of the
18 law enforcement officer or any person acting at the direction
19 of law enforcement, in the course of an investigation of a
20 forcible felony, a felony offense of involuntary servitude,
21 involuntary sexual servitude of a minor, or trafficking in
22 persons under Section 10-9 of this Code, an offense involving
23 prostitution, solicitation of a sexual act, or pandering, a
24 felony violation of the Illinois Controlled Substances Act, a
25 felony violation of the Cannabis Control Act, a felony
26 violation of the Methamphetamine Control and Community

1 Protection Act, any "streetgang related" or "gang-related"
2 felony as those terms are defined in the Illinois Streetgang
3 Terrorism Omnibus Prevention Act, or any felony offense
4 involving any weapon listed in paragraphs (1) through (11) of
5 subsection (a) of Section 24-1 of this Code. Any recording or
6 evidence derived as the result of this exemption shall be
7 inadmissible in any proceeding, criminal, civil or
8 administrative, except (i) where a party to the conversation
9 suffers great bodily injury or is killed during such
10 conversation, or (ii) when used as direct impeachment of a
11 witness concerning matters contained in the interception or
12 recording. The Director of the Department of State Police shall
13 issue regulations as are necessary concerning the use of
14 devices, retention of tape recordings, and reports regarding
15 their use;

16 (g-5) With approval of the State's Attorney of the county
17 in which it is to occur, recording or listening with the aid of
18 any device to any conversation where a law enforcement officer,
19 or any person acting at the direction of law enforcement, is a
20 party to the conversation and has consented to it being
21 intercepted or recorded in the course of an investigation of
22 any offense defined in Article 29D of this Code. In all such
23 cases, an application for an order approving the previous or
24 continuing use of an eavesdropping device must be made within
25 48 hours of the commencement of such use. In the absence of
26 such an order, or upon its denial, any continuing use shall

1 immediately terminate. The Director of State Police shall issue
2 rules as are necessary concerning the use of devices, retention
3 of tape recordings, and reports regarding their use.

4 Any recording or evidence obtained or derived in the course
5 of an investigation of any offense defined in Article 29D of
6 this Code shall, upon motion of the State's Attorney or
7 Attorney General prosecuting any violation of Article 29D, be
8 reviewed in camera with notice to all parties present by the
9 court presiding over the criminal case, and, if ruled by the
10 court to be relevant and otherwise admissible, it shall be
11 admissible at the trial of the criminal case.

12 This subsection (g-5) is inoperative on and after January
13 1, 2005. No conversations recorded or monitored pursuant to
14 this subsection (g-5) shall be inadmissible in a court of law
15 by virtue of the repeal of this subsection (g-5) on January 1,
16 2005;

17 (g-6) With approval of the State's Attorney of the county
18 in which it is to occur, recording or listening with the aid of
19 any device to any conversation where a law enforcement officer,
20 or any person acting at the direction of law enforcement, is a
21 party to the conversation and has consented to it being
22 intercepted or recorded in the course of an investigation of
23 involuntary servitude, involuntary sexual servitude of a
24 minor, trafficking in persons, child pornography, aggravated
25 child pornography, indecent solicitation of a child, child
26 abduction, luring of a minor, sexual exploitation of a child,

1 predatory criminal sexual assault of a child, aggravated
2 criminal sexual abuse in which the victim of the offense was at
3 the time of the commission of the offense under 18 years of
4 age, criminal sexual abuse by force or threat of force in which
5 the victim of the offense was at the time of the commission of
6 the offense under 18 years of age, or aggravated criminal
7 sexual assault in which the victim of the offense was at the
8 time of the commission of the offense under 18 years of age. In
9 all such cases, an application for an order approving the
10 previous or continuing use of an eavesdropping device must be
11 made within 48 hours of the commencement of such use. In the
12 absence of such an order, or upon its denial, any continuing
13 use shall immediately terminate. The Director of State Police
14 shall issue rules as are necessary concerning the use of
15 devices, retention of recordings, and reports regarding their
16 use. Any recording or evidence obtained or derived in the
17 course of an investigation of involuntary servitude,
18 involuntary sexual servitude of a minor, trafficking in
19 persons, child pornography, aggravated child pornography,
20 indecent solicitation of a child, child abduction, luring of a
21 minor, sexual exploitation of a child, predatory criminal
22 sexual assault of a child, aggravated criminal sexual abuse in
23 which the victim of the offense was at the time of the
24 commission of the offense under 18 years of age, criminal
25 sexual abuse by force or threat of force in which the victim of
26 the offense was at the time of the commission of the offense

1 under 18 years of age, or aggravated criminal sexual assault in
2 which the victim of the offense was at the time of the
3 commission of the offense under 18 years of age shall, upon
4 motion of the State's Attorney or Attorney General prosecuting
5 any case involving involuntary servitude, involuntary sexual
6 servitude of a minor, trafficking in persons, child
7 pornography, aggravated child pornography, indecent
8 solicitation of a child, child abduction, luring of a minor,
9 sexual exploitation of a child, predatory criminal sexual
10 assault of a child, aggravated criminal sexual abuse in which
11 the victim of the offense was at the time of the commission of
12 the offense under 18 years of age, criminal sexual abuse by
13 force or threat of force in which the victim of the offense was
14 at the time of the commission of the offense under 18 years of
15 age, or aggravated criminal sexual assault in which the victim
16 of the offense was at the time of the commission of the offense
17 under 18 years of age, be reviewed in camera with notice to all
18 parties present by the court presiding over the criminal case,
19 and, if ruled by the court to be relevant and otherwise
20 admissible, it shall be admissible at the trial of the criminal
21 case. Absent such a ruling, any such recording or evidence
22 shall not be admissible at the trial of the criminal case;

23 (h) Recordings made simultaneously with the use of an
24 in-car video camera recording of an oral conversation between a
25 uniformed peace officer, who has identified his or her office,
26 and a person in the presence of the peace officer whenever (i)

1 an officer assigned a patrol vehicle is conducting an
2 enforcement stop; or (ii) patrol vehicle emergency lights are
3 activated or would otherwise be activated if not for the need
4 to conceal the presence of law enforcement.

5 For the purposes of this subsection (h), "enforcement stop"
6 means an action by a law enforcement officer in relation to
7 enforcement and investigation duties, including but not
8 limited to, traffic stops, pedestrian stops, abandoned vehicle
9 contacts, motorist assists, commercial motor vehicle stops,
10 roadside safety checks, requests for identification, or
11 responses to requests for emergency assistance;

12 (h-5) Recordings of utterances made by a person while in
13 the presence of a uniformed peace officer and while an occupant
14 of a police vehicle including, but not limited to, (i)
15 recordings made simultaneously with the use of an in-car video
16 camera and (ii) recordings made in the presence of the peace
17 officer utilizing video or audio systems, or both, authorized
18 by the law enforcement agency;

19 (h-10) Recordings made simultaneously with a video camera
20 recording during the use of a taser or similar weapon or device
21 by a peace officer if the weapon or device is equipped with
22 such camera;

23 (h-15) Recordings made under subsection (h), (h-5), or
24 (h-10) shall be retained by the law enforcement agency that
25 employs the peace officer who made the recordings for a storage
26 period of 90 days, unless the recordings are made as a part of

1 an arrest or the recordings are deemed evidence in any
2 criminal, civil, or administrative proceeding and then the
3 recordings must only be destroyed upon a final disposition and
4 an order from the court. Under no circumstances shall any
5 recording be altered or erased prior to the expiration of the
6 designated storage period. Upon completion of the storage
7 period, the recording medium may be erased and reissued for
8 operational use;

9 (i) Recording of a conversation made by or at the request
10 of a person, not a law enforcement officer or agent of a law
11 enforcement officer, who is a party to the conversation, under
12 reasonable suspicion that another party to the conversation is
13 committing, is about to commit, or has committed a criminal
14 offense against the person or a member of his or her immediate
15 household, and there is reason to believe that evidence of the
16 criminal offense may be obtained by the recording;

17 (j) The use of a telephone monitoring device by either (1)
18 a corporation or other business entity engaged in marketing or
19 opinion research or (2) a corporation or other business entity
20 engaged in telephone solicitation, as defined in this
21 subsection, to record or listen to oral telephone solicitation
22 conversations or marketing or opinion research conversations
23 by an employee of the corporation or other business entity
24 when:

25 (i) the monitoring is used for the purpose of service
26 quality control of marketing or opinion research or

1 telephone solicitation, the education or training of
2 employees or contractors engaged in marketing or opinion
3 research or telephone solicitation, or internal research
4 related to marketing or opinion research or telephone
5 solicitation; and

6 (ii) the monitoring is used with the consent of at
7 least one person who is an active party to the marketing or
8 opinion research conversation or telephone solicitation
9 conversation being monitored.

10 No communication or conversation or any part, portion, or
11 aspect of the communication or conversation made, acquired, or
12 obtained, directly or indirectly, under this exemption (j), may
13 be, directly or indirectly, furnished to any law enforcement
14 officer, agency, or official for any purpose or used in any
15 inquiry or investigation, or used, directly or indirectly, in
16 any administrative, judicial, or other proceeding, or divulged
17 to any third party.

18 When recording or listening authorized by this subsection
19 (j) on telephone lines used for marketing or opinion research
20 or telephone solicitation purposes results in recording or
21 listening to a conversation that does not relate to marketing
22 or opinion research or telephone solicitation; the person
23 recording or listening shall, immediately upon determining
24 that the conversation does not relate to marketing or opinion
25 research or telephone solicitation, terminate the recording or
26 listening and destroy any such recording as soon as is

1 practicable.

2 Business entities that use a telephone monitoring or
3 telephone recording system pursuant to this exemption (j) shall
4 provide current and prospective employees with notice that the
5 monitoring or recordings may occur during the course of their
6 employment. The notice shall include prominent signage
7 notification within the workplace.

8 Business entities that use a telephone monitoring or
9 telephone recording system pursuant to this exemption (j) shall
10 provide their employees or agents with access to personal-only
11 telephone lines which may be pay telephones, that are not
12 subject to telephone monitoring or telephone recording.

13 For the purposes of this subsection (j), "telephone
14 solicitation" means a communication through the use of a
15 telephone by live operators:

- 16 (i) soliciting the sale of goods or services;
17 (ii) receiving orders for the sale of goods or
18 services;
19 (iii) assisting in the use of goods or services; or
20 (iv) engaging in the solicitation, administration, or
21 collection of bank or retail credit accounts.

22 For the purposes of this subsection (j), "marketing or
23 opinion research" means a marketing or opinion research
24 interview conducted by a live telephone interviewer engaged by
25 a corporation or other business entity whose principal business
26 is the design, conduct, and analysis of polls and surveys

1 measuring the opinions, attitudes, and responses of
2 respondents toward products and services, or social or
3 political issues, or both;

4 (k) Electronic recordings, including but not limited to, a
5 motion picture, videotape, digital, or other visual or audio
6 recording, made of a custodial interrogation of an individual
7 at a police station or other place of detention by a law
8 enforcement officer or prosecutor ~~under Section 5 401.5 of the~~
9 ~~Juvenile Court Act of 1987 or Section 103 2.1 of the Code of~~
10 ~~Criminal Procedure of 1963;~~

11 (l) Recording the interview or statement of any person when
12 the person knows that the interview is being conducted by a law
13 enforcement officer or prosecutor and the interview takes place
14 at a police station that is currently participating in the
15 Custodial Interview Pilot Program established under the
16 Illinois Criminal Justice Information Act;

17 (m) An electronic recording, including but not limited to,
18 a motion picture, videotape, digital, or other visual or audio
19 recording, made of the interior of a school bus while the
20 school bus is being used in the transportation of students to
21 and from school and school-sponsored activities, when the
22 school board has adopted a policy authorizing such recording,
23 notice of such recording policy is included in student
24 handbooks and other documents including the policies of the
25 school, notice of the policy regarding recording is provided to
26 parents of students, and notice of such recording is clearly

1 posted on the door of and inside the school bus.

2 Recordings made pursuant to this subsection (m) shall be
3 confidential records and may only be used by school officials
4 (or their designees) and law enforcement personnel for
5 investigations, school disciplinary actions and hearings,
6 proceedings under the Juvenile Court Act of 1987, and criminal
7 prosecutions, related to incidents occurring in or around the
8 school bus;

9 (n) Recording or listening to an audio transmission from a
10 microphone placed by a person under the authority of a law
11 enforcement agency inside a bait car surveillance vehicle while
12 simultaneously capturing a photographic or video image;

13 (o) The use of an eavesdropping camera or audio device
14 during an ongoing hostage or barricade situation by a law
15 enforcement officer or individual acting on behalf of a law
16 enforcement officer when the use of such device is necessary to
17 protect the safety of the general public, hostages, or law
18 enforcement officers or anyone acting on their behalf;

19 (p) Recording or listening with the aid of any device to
20 incoming telephone calls of phone lines publicly listed or
21 advertised as the "CPS Violence Prevention Hotline", but only
22 where the notice of recording is given at the beginning of each
23 call as required by Section 34-21.8 of the School Code. The
24 recordings may be retained only by the Chicago Police
25 Department or other law enforcement authorities, and shall not
26 be otherwise retained or disseminated; and

1 (q)(1) With prior request to and verbal approval of the
2 State's Attorney of the county in which the conversation is
3 anticipated to occur, recording or listening with the aid of an
4 eavesdropping device to a conversation in which a law
5 enforcement officer, or any person acting at the direction of a
6 law enforcement officer, is a party to the conversation and has
7 consented to the conversation being intercepted or recorded in
8 the course of an investigation of a drug offense. The State's
9 Attorney may grant this verbal approval only after determining
10 that reasonable cause exists to believe that a drug offense
11 will be committed by a specified individual or individuals
12 within a designated period of time.

13 (2) Request for approval. To invoke the exception contained
14 in this subsection (q), a law enforcement officer shall make a
15 written or verbal request for approval to the appropriate
16 State's Attorney. This request for approval shall include
17 whatever information is deemed necessary by the State's
18 Attorney but shall include, at a minimum, the following
19 information about each specified individual whom the law
20 enforcement officer believes will commit a drug offense:

21 (A) his or her full or partial name, nickname or alias;

22 (B) a physical description; or

23 (C) failing either (A) or (B) of this paragraph (2),
24 any other supporting information known to the law
25 enforcement officer at the time of the request that gives
26 rise to reasonable cause to believe the individual will

1 commit a drug offense.

2 (3) Limitations on verbal approval. Each verbal approval by
3 the State's Attorney under this subsection (q) shall be limited
4 to:

5 (A) a recording or interception conducted by a
6 specified law enforcement officer or person acting at the
7 direction of a law enforcement officer;

8 (B) recording or intercepting conversations with the
9 individuals specified in the request for approval,
10 provided that the verbal approval shall be deemed to
11 include the recording or intercepting of conversations
12 with other individuals, unknown to the law enforcement
13 officer at the time of the request for approval, who are
14 acting in conjunction with or as co-conspirators with the
15 individuals specified in the request for approval in the
16 commission of a drug offense;

17 (C) a reasonable period of time but in no event longer
18 than 24 consecutive hours.

19 (4) Admissibility of evidence. No part of the contents of
20 any wire, electronic, or oral communication that has been
21 recorded or intercepted as a result of this exception may be
22 received in evidence in any trial, hearing, or other proceeding
23 in or before any court, grand jury, department, officer,
24 agency, regulatory body, legislative committee, or other
25 authority of this State, or a political subdivision of the
26 State, other than in a prosecution of:

1 (A) a drug offense;

2 (B) a forcible felony committed directly in the course
3 of the investigation of a drug offense for which verbal
4 approval was given to record or intercept a conversation
5 under this subsection (q); or

6 (C) any other forcible felony committed while the
7 recording or interception was approved in accordance with
8 this Section (q), but for this specific category of
9 prosecutions, only if the law enforcement officer or person
10 acting at the direction of a law enforcement officer who
11 has consented to the conversation being intercepted or
12 recorded suffers great bodily injury or is killed during
13 the commission of the charged forcible felony.

14 (5) Compliance with the provisions of this subsection is a
15 prerequisite to the admissibility in evidence of any part of
16 the contents of any wire, electronic or oral communication that
17 has been intercepted as a result of this exception, but nothing
18 in this subsection shall be deemed to prevent a court from
19 otherwise excluding the evidence on any other ground, nor shall
20 anything in this subsection be deemed to prevent a court from
21 independently reviewing the admissibility of the evidence for
22 compliance with the Fourth Amendment to the U.S. Constitution
23 or with Article I, Section 6 of the Illinois Constitution.

24 (6) Use of recordings or intercepts unrelated to drug
25 offenses. Whenever any wire, electronic, or oral communication
26 has been recorded or intercepted as a result of this exception

1 that is not related to a drug offense or a forcible felony
2 committed in the course of a drug offense, no part of the
3 contents of the communication and evidence derived from the
4 communication may be received in evidence in any trial,
5 hearing, or other proceeding in or before any court, grand
6 jury, department, officer, agency, regulatory body,
7 legislative committee, or other authority of this State, or a
8 political subdivision of the State, nor may it be publicly
9 disclosed in any way.

10 (7) Definitions. For the purposes of this subsection (q)
11 only:

12 "Drug offense" includes and is limited to a felony
13 violation of one of the following: (A) the Illinois
14 Controlled Substances Act, (B) the Cannabis Control Act,
15 and (C) the Methamphetamine Control and Community
16 Protection Act.

17 "Forcible felony" includes and is limited to those
18 offenses contained in Section 2-8 of the Criminal Code of
19 1961 as of the effective date of this amendatory Act of the
20 97th General Assembly, and only as those offenses have been
21 defined by law or judicial interpretation as of that date.

22 "State's Attorney" includes and is limited to the
23 State's Attorney or an assistant State's Attorney
24 designated by the State's Attorney to provide verbal
25 approval to record or intercept conversations under this
26 subsection (q).

1 (8) Sunset. This subsection (q) is inoperative on and after
2 January 1, 2015. No conversations intercepted pursuant to this
3 subsection (q), while operative, shall be inadmissible in a
4 court of law by virtue of the inoperability of this subsection
5 (q) on January 1, 2015.

6 (Source: P.A. 96-425, eff. 8-13-09; 96-547, eff. 1-1-10;
7 96-643, eff. 1-1-10; 96-670, eff. 8-25-09; 96-1000, eff.
8 7-2-10; 96-1425, eff. 1-1-11; 96-1464, eff. 8-20-10; 97-333,
9 eff. 8-12-11; 97-846, eff. 1-1-13; 97-897, eff. 1-1-13; revised
10 8-23-12.)

11 Section 20. The Code of Criminal Procedure of 1963 is
12 amended by changing Section 103-2.1 as follows:

13 (725 ILCS 5/103-2.1)

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

15 (a) In this Section, "custodial interrogation" means any
16 interrogation during which (i) a reasonable person in the
17 subject's position would consider himself or herself to be in
18 custody and (ii) during which a question is asked that is
19 reasonably likely to elicit an incriminating response.

20 In this Section, "place of detention" means a building or a
21 police station that is a place of operation for a municipal
22 police department or county sheriff department or other law
23 enforcement agency, not a courthouse, that is owned or operated
24 by a law enforcement agency at which persons are or may be held

1 in detention in connection with criminal charges against those
2 persons.

3 In this Section, "electronic recording" includes motion
4 picture, audiotape, or videotape, or digital recording.

5 (b) An oral, written, or sign language statement of an
6 accused made as a result of a custodial interrogation at a
7 police station or other place of detention shall be presumed to
8 be inadmissible as evidence against the accused in any criminal
9 proceeding brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3,
10 9-3.2, or 9-3.3 of the Criminal Code of 1961 or the Criminal
11 Code of 2012 or under clause (d) (1) (F) of Section 11-501 of the
12 Illinois Vehicle Code unless:

13 (1) an electronic recording is made of the custodial
14 interrogation; and

15 (2) the recording is substantially accurate and not
16 intentionally altered.

17 (b-1) Electronic recordings may be made of statements of
18 an accused regarding offenses in addition to those enumerated
19 in subsection (b).

20 (c) Every electronic recording prepared ~~required~~ under
21 this Section must be preserved until such time as the
22 defendant's conviction for any offense relating to the
23 statement is final and all direct and habeas corpus appeals are
24 exhausted, or the prosecution of such offenses is barred by
25 law.

26 (d) If the court finds, by a preponderance of the evidence,

1 that the defendant was subjected to a custodial interrogation
2 in violation of subsection (b) ~~this Section~~, then any
3 statements made by the defendant during or following that
4 non-recorded custodial interrogation, even if otherwise in
5 compliance with this Section, are presumed to be inadmissible
6 in any criminal proceeding against the defendant except for the
7 purposes of impeachment.

8 (e) Nothing in this Section precludes the admission (i) of
9 a statement made by the accused in open court at his or her
10 trial, before a grand jury, or at a preliminary hearing, (ii)
11 of a statement made during a custodial interrogation that was
12 not recorded as required by this Section, because electronic
13 recording was not feasible, (iii) of a voluntary statement,
14 whether or not the result of a custodial interrogation, that
15 has a bearing on the credibility of the accused as a witness,
16 (iv) of a spontaneous statement that is not made in response to
17 a question, (v) of a statement made after questioning that is
18 routinely asked during the processing of the arrest of the
19 suspect, (vi) of a statement made during a custodial
20 interrogation by a suspect who requests, prior to making the
21 statement, to respond to the interrogator's questions only if
22 an electronic recording is not made of the statement, provided
23 that an electronic recording is made of the statement of
24 agreeing to respond to the interrogator's question, only if a
25 recording is not made of the statement, (vii) of a statement
26 made during a custodial interrogation that is conducted

1 out-of-state, (viii) of a statement given at a time when the
2 interrogators are unaware that a death has in fact occurred, or
3 (ix) of any other statement that may be admissible under law.
4 The State shall bear the burden of proving, by a preponderance
5 of the evidence, that one of the exceptions described in this
6 subsection (e) is applicable. Nothing in this Section precludes
7 the admission of a statement, otherwise inadmissible under this
8 Section, that is used only for impeachment and not as
9 substantive evidence. Nothing in this Section precludes the
10 admission of a statement in a prosecution for an offense other
11 than those enumerated in subsection (b).

12 (f) The presumption of inadmissibility of a statement made
13 by a suspect at a custodial interrogation at a police station
14 or other place of detention may be overcome by a preponderance
15 of the evidence that the statement was voluntarily given and is
16 reliable, based on the totality of the circumstances.

17 (g) Any electronic recording of any statement made by an
18 accused during a custodial interrogation that is compiled by
19 any law enforcement agency ~~as required by this Section for the~~
20 ~~purposes of fulfilling the requirements of this Section~~ shall
21 be confidential and exempt from public inspection and copying,
22 as provided under Section 7 of the Freedom of Information Act,
23 and the information shall not be transmitted to anyone except
24 as needed to comply with this Section.

25 (h) All law enforcement agencies shall submit monthly
26 reports to the Electronic Recordings Database in the Illinois

1 Criminal Justice Information Authority regarding any
2 electronic recordings made under this Section in a form and in
3 a manner as may be prescribed by rules adopted by the Illinois
4 Criminal Justice Information Authority.
5 (Source: P.A. 97-1150, eff. 1-25-13.)".