

West's Vermont Statutes Annotated
Title Thirteen. Crimes and Criminal Procedure (Refs & Annos)
Part 3. Proceedings Before Trial (Refs & Annos)
Chapter 182. Innocence Protection
Subchapter 3. Law Enforcement Practices

13 V.S.A. § 5581

§ 5581. Electronic recording of a custodial interrogation

Currentness

<Text of section effective Oct. 1, 2015. See, also, text of section effective until Oct. 1, 2015.>

(a) As used in this section:

(1) “Custodial interrogation” means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject’s position would consider himself or herself to be in custody, starting from the moment a person should have been advised of his or her Miranda rights and ending when the questioning has concluded.

(2) “Electronic recording” or “electronically recorded” means an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation, or if law enforcement does not have the current capacity to create a visual recording, an audio recording of the interrogation.

(3) “Place of detention” means a building or a police station that is a place of operation for the State police, a municipal police department, county sheriff department, or other law enforcement agency that is owned or operated by a law enforcement agency at which persons are or may be questioned in connection with criminal offenses or detained temporarily in connection with criminal charges pending a potential arrest or citation.

(4) “Statement” means an oral, written, sign language, or nonverbal communication.

(b)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony violation of chapter 53 (homicide) or 72 (sexual assault) of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.

(c)(1) The following are exceptions to the recording requirement in subsection (b) of this section:

(A) exigent circumstances;

(B) a person's refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony violation of chapter 53 (homicide) or 72 (sexual assault) of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of his or her identity; and

(F) equipment malfunction.

(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the Court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.

Credits

2013, Adj. Sess., No. 193, § 4, eff. Oct. 1, 2015.

13 V.S.A. § 5581, VT ST T. 13 § 5581

Current through the laws of the Adjourned Session of the 2013-2014 Vermont General Assembly (2014).

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