

AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING ELECTRONIC RECORDING OF
CUSTODIAL INTERROGATIONS; ESTABLISHING PROCEDURES FOR
ELECTRONIC RECORDINGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. ELECTRONIC RECORDINGS OF CUSTODIAL
INTERROGATIONS.--

A. A state or local law enforcement officer shall
comply when reasonably able to do so with the following
procedures when conducting a custodial interrogation:

(1) the custodial interrogation shall be
electronically recorded in its entirety;

(2) if conducted in a police station, the
custodial interrogation shall be electronically recorded by a
method that includes audio or visual or both, if available;
and

(3) the electronic recording shall include
the advice of constitutional rights required by law.

B. A law enforcement officer shall comply with the
provisions of this section unless the law enforcement officer
has good cause not to electronically record the entire
custodial interrogation and makes a contemporaneous written or
electronic record of the reasons for not doing so. Good cause
includes:

(1) the electronic recording equipment was not reasonably available;

(2) the electronic recording equipment failed and obtaining replacement equipment was not feasible;

(3) the individual refused to be recorded;
or

(4) the statement was made in a court proceeding or a grand jury proceeding.

C. Statements that are spontaneously volunteered and not the result of custodial interrogation are not subject to the provisions of this section.

D. The provisions of this section shall apply only to custodial interrogations when, at the time of the interrogation, the person is suspected of committing a felony offense.

E. The provisions of this section do not apply to custodial interrogations conducted outside the state of New Mexico.

F. The provisions of this section do not apply to statements used for impeachment purposes.

G. The provisions of this section do not apply within a correctional facility.

H. As used in this section:

(1) "custodial interrogation" means questioning by law enforcement officers that requires the

