

**Department of Legislative Services**  
 Maryland General Assembly  
 2003 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 387 (Delegate Arnick)  
 Judiciary

**Criminal Procedure - Custodial Interrogation - Electronic Recordation**

This bill requires a custodial interrogation occurring at a “place of detention” to be electronically recorded, unless there is a lack of proper equipment or time is of the essence. A “custodial interrogation” is any interrogation by a police officer in which the individual being interrogated is not free to leave, and a question is asked that is designed to elicit an incriminating response. The individual must be advised of certain rights prior to the interrogation, which must also be recorded.

The bill will take effect on October 1, 2004.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by an estimated \$72,200 in FY 2004 for the Department of State Police to purchase videotaping equipment and supplies. Out-years reflect ongoing costs for videotapes, and replacement equipment purchases in FY 2007.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	72,200	5,900	6,000	74,400	6,100
Net Effect	(\$72,200)	(\$5,900)	(\$6,000)	(\$74,400)	(\$6,100)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** The bill is consistent with current practices in certain local jurisdictions. **The bill may impose a mandate on a unit of local government.**

**Small Business Effect:** None.

## Analysis

**Bill Summary:** Before a custodial interrogation begins, a police officer must advise the individual being questioned that:

- the individual has the right to remain silent;
- anything the individual says will be used against the individual in a court of law;
- the individual has the right to have an attorney, and to have the attorney present during the interrogation; and
- if the individual is unable to afford an attorney, the individual has the right to have an attorney appointed to represent the individual.

“Place of detention” means a facility under the control of a law enforcement unit.

**Current Law:** Maryland law does not require or prohibit videotaped interrogations. The practice varies throughout the State.

In *Miranda v. Arizona*, 384 U.S. 436 (1966), the Supreme Court held that a criminal defendant must be advised of the above-listed rights before answering any questions designed to elicit an incriminating response, or the answers would be inadmissible in a subsequent court proceeding.

**Background:** Interest in videotaped interrogations has increased following the 2002 release of the five teenagers convicted of the 1989 rape and near-murder of the “Central Park Jogger” on the basis of their (nonvideotaped) confessions. They were ordered released after another person confessed to having committed the crime, acting alone, and DNA evidence failed to link the teenagers to the scene.

Videotaping the *Miranda* warnings at the start of an interrogation could reduce subsequent challenges based on a defendant’s not having been properly apprised of these rights. The practice could also help resolve questions as to what was said and done over the course of an interrogation.

Texas currently requires this by statute. The Alaska and Minnesota supreme courts have informed law enforcement officials in those states that they must record interviews of suspects in detention whenever feasible, or risk the statements being ruled inadmissible in court.

**State Fiscal Effect:** The Department of State Police estimates that this bill could increase general fund expenditures by \$118,750 in fiscal 2004. This includes the purchase of a VCR, monitor, video camera and mounting station for each of its 23

barracks, at a cost of \$14,950; and a video camera for each of its 346 investigators, at a cost of \$103,800. The Department of Legislative Services (DLS) estimates the cost of videotapes at \$15,800 in fiscal 2004.

DLS concurs with the cost of the equipment for each barracks, but believes the estimate for individual video cameras is too high. If the majority of interrogations are conducted at the barracks, five to seven video cameras should be sufficient per barracks, as there are rarely more than that number of officers present at the barracks at any time. Procedures could be established whereby two or more investigators share a camera, and all would have access to those maintained at the barracks. To the extent these interrogations take place in the field, there are exceptions in the bill for situations where there is a lack of proper equipment, or time is of the essence.

Montgomery County videotapes all interrogations, but does so at police barracks. Each facility contains one or more interrogation rooms equipped with the necessary items. Thus no investigators are issued individual video cameras. To the extent investigators make preliminary inquiries before bringing a suspect to the barracks, it is believed that would be covered by the bill's exceptions.

DLS's estimate of a \$72,150 cost in fiscal 2004 is based on the following:

23 VCRs, monitors, video cameras and mounting stations (one of each for each facility)	\$14,950
136 additional video cameras for use by investigators (6 per facility)	41,400
Cost of videotapes	<u>15,800</u>
<b>Total</b>	<b>\$72,150</b>

**Local Expenditures:** The bill will have minimal fiscal impact in Baltimore City and Montgomery and Worcester counties, where this practice is already used extensively. Washington County estimates that the bill will increase expenditures by \$47,000 in the first year of operation. Kent County advises that it would be required to purchase additional equipment as a result of the bill.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State's Attorneys' Association, Washington County, Montgomery County, Worcester County, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Natural Resources, Department of State Police, Department of Transportation, Kent County, Department of General Services, Baltimore City, Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2003  
ncs/cer Revised - Updated Information - February 20, 2003

---

Analysis by: Rita A. Reimer

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510