

---

By: **Delegates Smigiel, Anderson, Aumann, Boschert, Costa, Cryor, Dwyer, Frank, Kach, Menes, Myers, Rosenberg, Shank, Sossi, and Taylor**  
 Introduced and read first time: January 26, 2005  
 Assigned to: Judiciary

---

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring a custodial interrogation to be electronically recorded  
4 under certain circumstances; requiring a police officer to advise a certain  
5 individual of certain rights and warnings at a certain time; defining certain  
6 terms; providing for a delayed effective date; and generally relating to  
7 electronically recording a custodial interrogation and rights and warnings of  
8 certain individuals.

9 BY repealing and reenacting, with amendments,  
10 Article - Criminal Procedure  
11 Section 2-101  
12 Annotated Code of Maryland  
13 (2001 Volume and 2004 Supplement)

14 BY adding to  
15 Article - Criminal Procedure  
16 Section 2-401 to be under the new subtitle "Subtitle 4. Custodial Interrogation"  
17 Annotated Code of Maryland  
18 (2001 Volume and 2004 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Criminal Procedure**

22 2-101.

23 (a) In this title the following words have the meanings indicated.

24 (B) "CUSTODIAL INTERROGATION" MEANS AN INTERROGATION BY A POLICE  
25 OFFICER IN WHICH THE INDIVIDUAL BEING INTERROGATED IS NOT FREE TO LEAVE  
26 AND WHICH INCLUDES A QUESTION DESIGNED TO ELICIT AN INCRIMINATING  
27 RESPONSE.

1 [(b)] (C) "Emergency" means a sudden or unexpected happening or an  
2 unforeseen combination of circumstances that calls for immediate action to protect  
3 the health, safety, welfare, or property of a person from actual or threatened harm or  
4 from an unlawful act.

5 (D) "PLACE OF DETENTION" MEANS A FACILITY UNDER THE CONTROL OF A  
6 LAW ENFORCEMENT UNIT.

7 [(c)] (E) "Police officer" means a person who in an official capacity is  
8 authorized by law to make arrests and is:

9 (1) a member of the Department of State Police;

10 (2) a member of the Police Department of Baltimore City;

11 (3) a member of the Baltimore City School Police Force;

12 (4) a member of the police department, bureau, or force of a county;

13 (5) a member of the police department, bureau, or force of a municipal  
14 corporation;

15 (6) a member of the Maryland Transit Administration Police Force,  
16 Maryland Port Administration Police Force, or Maryland Transportation Authority  
17 Police Force;

18 (7) a member of the University of Maryland Police Force or Morgan State  
19 University Police Force;

20 (8) a special police officer who is appointed to enforce the law and  
21 maintain order on or protect property of the State or any of its units;

22 (9) a member of the Department of General Services security force;

23 (10) the sheriff of a county whose usual duties include the making of  
24 arrests;

25 (11) a regularly employed deputy sheriff of a county who is compensated  
26 by the county and whose usual duties include the making of arrests;

27 (12) a member of the Natural Resources Police Force of the Department of  
28 Natural Resources;

29 (13) an authorized employee of the Field Enforcement Division of the  
30 Comptroller's Office;

31 (14) a member of the Maryland-National Capital Park and Planning  
32 Commission Park Police;

33 (15) a member of the Housing Authority of Baltimore City Police Force;

- 1 (16) a member of the Crofton Police Department;
- 2 (17) a member of the WMATA Metro Transit Police, subject to the  
3 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan  
4 Area Transit Authority Compact, which is codified at § 10-204 of the Transportation  
5 Article;
- 6 (18) a member of the Internal Investigative Unit of the Department;
- 7 (19) a member of the State Forest and Park Service Police Force of the  
8 Department of Natural Resources;
- 9 (20) a member of the Department of Labor, Licensing, and Regulation  
10 Police Force; or
- 11 (21) a member of the Washington Suburban Sanitary Commission Police  
12 Force.

13 SUBTITLE 4. CUSTODIAL INTERROGATION.

14 2-401.

15 (A) A CUSTODIAL INTERROGATION AND AN ADVISEMENT OR WAIVER OF  
16 RIGHTS UNDER SUBSECTION (B) OF THIS SECTION THAT OCCUR AT A PLACE OF  
17 DETENTION SHALL BE ELECTRONICALLY RECORDED, UNLESS:

- 18 (1) THERE IS A LACK OF PROPER EQUIPMENT; OR
- 19 (2) TIME CONSTRAINTS DO NOT REASONABLY ALLOW FOR THE  
20 RECORDATION.

21 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, BEFORE CUSTODIAL  
22 INTERROGATION BEGINS, A POLICE OFFICER SHALL ADVISE THE INDIVIDUAL  
23 SUBJECT TO THE INTERROGATION OF THE FOLLOWING RIGHTS AND WARNINGS:

- 24 (1) THE INDIVIDUAL HAS THE RIGHT TO REMAIN SILENT;
- 25 (2) ANYTHING THE INDIVIDUAL SAYS WILL BE USED AGAINST THE  
26 INDIVIDUAL IN A COURT OF LAW;
- 27 (3) THE INDIVIDUAL HAS THE RIGHT TO HAVE AN ATTORNEY AND TO  
28 HAVE THE ATTORNEY PRESENT WITH THE INDIVIDUAL DURING INTERROGATION;  
29 AND
- 30 (4) IF THE INDIVIDUAL IS UNABLE TO AFFORD AN ATTORNEY, THE  
31 INDIVIDUAL HAS THE RIGHT TO HAVE AN ATTORNEY APPOINTED TO REPRESENT THE  
32 INDIVIDUAL.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 July 1, 2006.

