

111TH CONGRESS
2D SESSION

H. R. 6245

To amend title 18, United States Code, to require the electronic recording of custodial interrogations in Federal criminal cases.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

Mr. JOHNSON of Georgia (for himself, Mr. ELLISON, Mr. DAVIS of Illinois, Mr. GRLJALVA, and Ms. NORTON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to require the electronic recording of custodial interrogations in Federal criminal cases.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Effective Law Enforce-
5 ment Through Transparent Interrogations Act of 2010”.

1 **SEC. 2. RECORDING OF FEDERAL INVESTIGATIVE INTER-**
2 **ROGATIONS.**

3 (a) IN GENERAL.—Chapter 223 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 3512. Recording of Federal investigative interroga-**
7 **tions**

8 “(a) GENERALLY REQUIRED.—Except as provided in
9 this section, a statement by an individual during a custo-
10 dial interrogation that is not electronically recorded, and
11 all statements made thereafter by such individual during
12 such interrogation, including statements that are elec-
13 tronically recorded, are inadmissible against such indi-
14 vidual in a prosecution for a Federal felony.

15 “(b) EXCEPTIONS.—Subsection (a) does not apply if
16 the court determines an imminent threat of bodily injury
17 or other exigent circumstance made the electronic record-
18 ing of a custodial interrogation impracticable.

19 “(c) AVAILABILITY TO PERSON INTERROGATED.—
20 The Attorney General shall make available a copy of a
21 electronic recording of a custodial interrogation to the in-
22 dividual who was subject to such interrogation.

23 “(d) HANDLING AND PRESERVATION OF ELEC-
24 TRONIC RECORDING.—

25 “(1) IN GENERAL.—The Attorney General shall
26 identify and catalogue any electronic recording of a

1 custodial interrogation made pursuant to this sec-
2 tion.

3 “(2) LENGTH OF PRESERVATION.—An elec-
4 tronic recording of a custodial interrogation
5 catalogued under paragraph (1) shall not be de-
6 stroyed or altered in any way until—

7 “(A) all appeals, post-conviction, habeas
8 corpus proceedings, and all other orders and
9 judgements with respect to an individual who
10 was subject to such interrogation are final;

11 “(B) the deadline by which such individual
12 must file such proceedings or has expired; or

13 “(C) the statute of limitations of the Fed-
14 eral felony, or any related offenses, for which
15 such individual was subject to such interroga-
16 tion has expired.

17 “(3) ELECTION OF LONGER PRESERVATION.—
18 Upon petition by an individual, the court may order
19 that a copy of an electronic recording of a custodial
20 interrogation of such individual be preserved beyond
21 the periods of time listed under paragraph (2).

22 “(e) DEFINITIONS.—In this section—

23 “(1) the term ‘custodial interrogation’ means
24 an interview which occurs while an individual is in
25 custody involving a law enforcement officer’s ques-

1 tioning that is reasonably likely to elicit incrimi-
2 nating responses;

3 “(2) the term ‘electronic recording’ means an
4 authentic, accurate, unaltered, and complete audio
5 and visual record, including a motion picture, video-
6 tape, audio tape, or digital recording, beginning with
7 the law enforcement officer’s advice of the individ-
8 ual’s constitutional rights and ending when the cus-
9 todial interrogation has finished, but that—

10 “(A) an audio recording of a custodial in-
11 terrogation may be considered an electronic re-
12 cording when an audio and visual recording is
13 not practicable; and

14 “(B) if a visual recording is made of a cus-
15 todial interrogation, any camera used in making
16 such recording shall be focused on both the law
17 enforcement officer conducting such interroga-
18 tion and the individual subject to such interro-
19 gation;

20 “(3) the term ‘law enforcement officer’ means
21 an individual acting with public authority to inves-
22 tigate or prosecute a criminal offense; and

23 “(4) the term ‘statement’ means an oral, writ-
24 ten, sign language, or nonverbal communication.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 223 of title 18, United States
3 Code, is amended by adding at the end the following new
4 item:

“3512. Recording of Federal investigative interrogations.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this Act shall apply in all proceedings commenced after
7 the date of enactment of this Act and, insofar as is just
8 and practicable, in all proceedings pending on such date
9 of enactment.

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