

JAN 25 2006
JUDICIARY

HOUSE FILE 2112
BY HUTTER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to electronically recording an interrogation of a
2 person accused of murder.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2112

1 Section 1. Section 232.45, subsection 11, Code 2005, is
2 amended by adding the following new unnumbered paragraph after
3 unnumbered paragraph 2:

4 NEW UNNUMBERED PARAGRAPH. Statements made by a juvenile
5 who is the suspect in a murder investigation, even though
6 otherwise deemed admissible pursuant to this subsection, are
7 only inadmissible if they comply with section 232.47A.

8 Sec. 2. Section 232.47, subsection 6, Code 2005, is
9 amended by adding the following new unnumbered paragraph:

10 NEW UNNUMBERED PARAGRAPH. Statements made by a juvenile
11 who is the suspect in a murder investigation, even though
12 otherwise deemed admissible pursuant to this subsection, are
13 only inadmissible if they comply with section 232.47A.

14 Sec. 3. NEW SECTION. 232.47A RECORDING A MURDER
15 INTERROGATION.

16 1. As used in this section:

17 a. "Accused juvenile" means any person suspected by a
18 peace officer of committing a murder in violation of chapter
19 707.

20 b. "Electronic recording" means a motion picture,
21 audiotape, videotape, or digital recording.

22 c. "Interrogation" means any interrogation that takes
23 place when a reasonable juvenile would consider the reasonable
24 juvenile's self to be in custody and a question is asked that
25 is reasonably likely to elicit an incriminating response.

26 d. "Place of detention" means a building that is a place
27 of operation for a city police department, county sheriff, or
28 other law enforcement agency, or is a place where a juvenile
29 may be held in detention and questioned in connection with a
30 delinquent act.

31 2. An oral, written, or sign language statement of an
32 accused juvenile made as a result of an interrogation at a
33 place of detention shall be presumed to be inadmissible
34 against the accused juvenile in any juvenile or criminal
35 proceeding unless an electronic recording of the interrogation

1 is made and the electronic recording is substantially accurate
2 and not intentionally altered.

3 3. If the court finds, by a preponderance of the evidence,
4 that the accused juvenile was subjected to an interrogation
5 not in accordance with this section, any statements made by
6 the accused juvenile during or following the nonrecorded or
7 improperly recorded custodial interrogation are presumed to be
8 inadmissible in any criminal proceeding against the accused
9 juvenile.

10 4. Except as otherwise provided by law, this section does
11 not preclude the admissibility of any of the following:

12 a. A statement made by the accused juvenile in open court.

13 b. A statement made during an interrogation that was not
14 electronically recorded because such a recording was not
15 feasible.

16 c. A voluntary statement, whether or not the result of an
17 interrogation.

18 d. A statement made during an interrogation by an accused
19 juvenile who, prior to making such a statement, asks that a
20 recording of the statement not be made.

21 e. A statement made during an interrogation that is made
22 out of state.

23 f. A statement made at a time the interrogators are
24 unaware that a murder has occurred.

25 g. A statement used for impeachment purposes.

26 h. Any other statement that may be admissible under any
27 other law.

28 5. The state shall bear the burden of proving beyond a
29 reasonable doubt that a statement not electronically recorded
30 in accordance with subsection 3 is admissible under subsection
31 4.

32 6. An electronic recording made under this section shall
33 be preserved until such time as all appeals have been
34 exhausted.

35 Sec. 4. NEW SECTION. 707.12 RECORDING A MURDER

1 INTERROGATION.

2 1. As used in this section:

3 a. "Accused person" means any person suspected by a peace
4 officer of committing a murder in violation of this chapter.

5 b. "Electronic recording" means a motion picture,
6 audiotape, videotape, or digital recording.

7 c. "Interrogation" means any interrogation that takes
8 place when a reasonable person would consider the reasonable
9 person's self to be in custody and a question is asked that is
10 reasonably likely to elicit an incriminating response.

11 d. "Place of detention" means a building that is a place
12 of operation for a city police department, county sheriff, or
13 other law enforcement agency, or is a place where a person may
14 be held in detention and questioned in connection with a
15 criminal charge.

16 2. An oral, written, or sign language statement of an
17 accused person made as a result of an interrogation at a place
18 of detention shall be presumed to be inadmissible against the
19 accused person in any criminal proceeding unless an electronic
20 recording of the interrogation is made and the electronic
21 recording is substantially accurate and not intentionally
22 altered.

23 3. If the court finds, by a preponderance of the evidence,
24 that the accused person was subjected to an interrogation not
25 in accordance with this section, any statements made by the
26 accused person during or following the nonrecorded or
27 improperly recorded custodial interrogation are presumed to be
28 inadmissible in any criminal proceeding against the accused
29 person.

30 4. Except as otherwise provided by law, this section does
31 not preclude the admissibility of any of the following:

32 a. A statement made by the accused person in open court.

33 b. A statement made during a custodial interrogation that
34 was not electronically recorded because such a recording was
35 not feasible.

1 c. A voluntary statement, whether or not the result of a
2 custodial interrogation.

3 d. A statement made during a custodial interrogation by an
4 accused person who, prior to making such a statement, asks
5 that a recording of the statement not be made.

6 e. A statement made during a custodial interrogation that
7 is made out of state.

8 f. A statement made at a time the interrogators are
9 unaware that a murder has occurred.

10 g. A statement used for impeachment purposes.

11 h. Any other statement that may be admissible under any
12 other law.

13 5. The state shall bear the burden of proving beyond a
14 reasonable doubt that a statement not electronically recorded
15 in accordance with subsection 3 is admissible under subsection
16 4.

17 6. An electronic recording made under this section shall
18 be preserved until such time as all appeals have been
19 exhausted.

20 EXPLANATION

21 This bill relates to electronically recording an
22 interrogation of an adult or juvenile accused of murder.

23 The bill requires a peace officer to electronically record
24 an interrogation of an adult or a juvenile suspected of
25 murder. Under the bill, if the interrogation is not recorded
26 and the adult or juvenile makes incriminating statements
27 during the interrogation, the statements are not admissible at
28 trial. The bill defines "electronic recording" to mean a
29 motion picture, audiotape, videotape, or digital recording.
30 The bill defines "interrogation" to mean any interrogation
31 that takes place when a reasonable person or juvenile would
32 consider himself or herself to be in custody and a question is
33 asked that is reasonably likely to elicit an incriminating
34 response.

35 The bill requires the electronic recording to be preserved

1 until such time as all appeals have been exhausted.

2 Except as otherwise provided by law, statements that are
3 not recorded are admissible under the bill under the following
4 circumstances: the statement is made in open court; the
5 statement is made during an interrogation that was not
6 recorded because such a recording was not feasible; a
7 voluntary statement; any statement if the accused permits the
8 interrogation not to be electronically recorded; a statement
9 made during an interrogation that is out of state; a statement
10 made to the interrogators who are unaware that a murder has
11 occurred; a statement used for impeachment purposes; and any
12 other statement that is admissible under any other law or
13 rule.

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