

AN ACT

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District of  
Columbia  
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To require the Metropolitan Police Department to electronically record interrogations conducted in Metropolitan Police Department interview rooms, to establish standards and procedures for the recording of the interrogations, to authorize the Chief of Police to establish by General Order additional procedures for the recording of interrogations, to create a rebuttable presumption that a statement taken in violation of the procedures for the recording of interrogations established by this act is involuntary, and to repeal the Electronic Recording Procedures Act of 2002.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Electronic Recording Procedures Act of 2004".

TITLE I.

Sec. 101. Procedures for electronic recording of interrogations.

(a)(1) The Metropolitan Police Department shall electronically record, in their entirety, and to the greatest extent feasible, custodial interrogations of persons suspected of committing a crime of violence, as that term is defined in D.C. Official Code § 23-1331(4), when the interrogation takes place in Metropolitan Police Department interview rooms equipped with electronic recording equipment.

(2) The recording required by paragraph (1) of this subsection shall commence with the first contact between the suspect and law enforcement personnel once the suspect has been placed in the interview room and shall include all subsequent contacts between the suspect and law enforcement personnel in the interview room.

(3) Nothing in this subsection shall prevent the Metropolitan Police Department from recording the actions of the suspect while law enforcement personnel are not in the interview room.

(b) The recording required by subsection (a) of this section shall include the giving of any warnings as to rights required by law, the response of the suspect to such warnings, and the consent, if any, of the suspect to the interrogation. If the required warnings have been given prior to placing the suspect in the interview room, the suspect shall be asked to affirm that he was

informed of and waived those rights.

(c)(1) If, after a suspect has been given the warnings as to rights required by law and voluntarily waived such rights, the suspect announces that the suspect will voluntarily speak with law enforcement personnel only on the express condition that the interrogation not be further recorded, the remainder of the interrogation need not be recorded. In such a case, the giving of any warnings, the suspect's response, the suspect's conditional consent, and all events preceding the conditional consent shall be recorded.

(2) Law enforcement personnel shall not expressly or implicitly encourage the suspect to give such conditional consent in lieu of a completely recorded interrogation.

Sec. 102. Authority to establish additional procedures.

The Chief of Police may issue a General Order establishing additional procedures, not inconsistent with those prescribed in section 101, for the electronic recording of interrogations by the Metropolitan Police Department.

Sec. 103. Evidentiary presumption.

Any statement of a person accused of a criminal offense in the Superior Court of the District of Columbia that is obtained in violation of section 101 shall be subject to the rebuttable presumption that it is involuntary. This presumption may be overcome if the prosecution proves by clear and convincing evidence that the statement was voluntarily given.

## TITLE II.

Sec. 201. Repealer.

The Electronic Recording Procedures Act of 2002, effective April 4, 2003 (D.C. Law 14-280; D.C. Official Code § 5-133.20), is repealed.

**Repeal  
§ 5-133.20**

## TITLE III.

Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

**ENROLLED ORIGINAL**

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia