

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	9 - 0 - 1
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Smith J., Stiegler, Whisnant, Barker
Nays:	0
Exc.:	Shields
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	5/21, 5/27, 5/28

WHAT THE MEASURE DOES: Requires electronic recordation of a custodial interview conducted by a law enforcement agency in a law enforcement facility if the interview is in connection with certain crimes. Does not apply to statements made before a grand jury, in open court, a custodial interrogation conducted in another state in compliance with the laws of that state, a custodial interrogation conducted by federal law enforcement in compliance with the laws of the United States, a spontaneous statement of the defendant, or if good cause is shown for not electronically recording. States that "good cause" includes the refusal of the defendant to have the interrogation recorded, the equipment malfunctioned, or recording would jeopardize the safety of any person or the confidentiality of an informant. Allows unrecorded statements into evidence but requires that the judge give the jury instructions concerning the fact that the statement was not recorded. Requires the state to provide the defendant with an electronic copy of the statement, but not a written transcript of the tape. Allows the recordation into evidence in any pre-trial or post-trial proceedings. Defines law enforcement facility as a courthouse or a building where a police or sheriff's office is located. Measure applies to minors, nonnative English speakers and murder cases on January 1, 2010, and to all other personal felonies on July 1, 2011 Measure does not apply to police departments of five or fewer sworn officers.

ISSUES DISCUSSED:

- July 1, 2011 effective date for most situations will give police departments a chance to adjust.
- "Law enforcement facility" does not include a police cruiser or other police vehicle.

EFFECT OF COMMITTEE AMENDMENT: Replaces the bill. Removes the provision regarding exception to the hearsay rule. Bill takes effect July 1, 2011 for those charged with aggravated murder or a Measure 11 crime unless the person interviewed is a minor or a nonnative English speaker or the person is charged with murder or vehicular homicide.

BACKGROUND: Currently in Oregon the statements of a defendant made during a criminal investigation and made while the defendant is in a law enforcement facility need not be recorded. Most states do not require recordation. However, about 13 states do and the list is growing. Many states and law enforcement agencies find that a recording of the defendant's statement assists in prosecution.