

Senate Bill 253

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Precludes admission of statements made by persons subjected to custodial interrogation under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to custodial interrogations; creating new provisions; and amending ORS 419C.270.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) Except as provided in subsection (3) of this section, a statement made**
5 **by a defendant during a custodial interrogation that is conducted in a law enforcement fa-**
6 **ility is inadmissible as evidence against the defendant if:**

7 (a) **The defendant is charged with a person felony; and**

8 (b) **The interrogation was not electronically recorded by the law enforcement agency**
9 **conducting the interrogation.**

10 (2) **Except as provided in subsection (3) of this section, a statement made by a defendant**
11 **following a custodial interrogation conducted in a law enforcement facility that was not**
12 **electronically recorded by the law enforcement agency conducting the interrogation is inad-**
13 **missible as evidence against a defendant charged with a person felony.**

14 (3) **Nothing in this section precludes the admission of a statement made by a defendant**
15 **if:**

16 (a) **The statement was made before a grand jury;**

17 (b) **The statement was made on the record in open court;**

18 (c) **The custodial interrogation was conducted in another state in compliance with the**
19 **laws of that state;**

20 (d) **The custodial interrogation was conducted by a federal law enforcement officer in**
21 **compliance with the laws of the United States; or**

22 (e) **The state demonstrates, through clear and convincing evidence, good cause for the**
23 **failure to electronically record the interrogation.**

24 (4) **A law enforcement agency that creates an electronic recording of a custodial inter-**
25 **rogation shall preserve the electronic recording until the defendant's conviction for any of-**
26 **fense relating to the custodial interrogation is final and all direct, post-conviction relief and**
27 **habeas corpus appeals are exhausted, or until the prosecution of those offenses is barred by**
28 **law.**

29 (5) **As used in this section:**

30 (a) **"Good cause" includes situations in which:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) The defendant refused to have the custodial interrogation electronically recorded;

2 (B) The failure to electronically record the custodial interrogation was the result of
3 equipment failure and:

4 (i) A replacement device was not immediately available; or

5 (ii) The law enforcement officer operating the equipment in good faith believed that the
6 equipment was operating properly;

7 (C) Electronically recording the custodial interrogation would jeopardize the safety of any
8 person or the identity of a confidential informant; or

9 (D) Exigent circumstances prevented the electronic recording of the custodial interro-
10 gation.

11 (b) "Law enforcement facility" means a sheriff's office, a police station, a courthouse, a
12 detention facility or a correctional facility as defined in ORS 131.005.

13 (c) "Person felony" has the meaning given that term in the rules of the Oregon Criminal
14 Justice Commission.

15 **SECTION 2.** ORS 419C.270 is amended to read:

16 419C.270. In all proceedings brought under ORS 419C.005, the following rules of criminal pro-
17 cedure apply:

18 (1) ORS 133.673, 133.693 and 133.703;

19 (2) ORS 135.455, 135.465 and 135.470;

20 (3) ORS 135.610, 135.630 (3) to (6), 135.640 and 135.670;

21 (4) ORS 135.711, 135.713, 135.715, 135.717, 135.720, 135.725, 135.727, 135.730, 135.733, 135.735,
22 135.737, 135.740 and 135.743;

23 (5) ORS 135.805 and 135.815 (1)(a) to (e) and (2);

24 (6) ORS 135.825, 135.835, 135.845 and 135.855 to 135.873; [*and*]

25 (7) ORS 136.432; **and**

26 (8) **Section 1 of this 2009 Act.**

27 **SECTION 3.** Section 1 of this 2009 Act and the amendments to ORS 419C.270 by section
28 2 of this 2009 Act apply to statements made on or after the effective date of this 2009 Act.

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