AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS; ESTABLISHING PROCEDURES FOR ELECTRONIC RECORDINGS.

- BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
- Section 1. ELECTRONIC RECORDINGS OF CUSTODIAL INTERROGATIONS.--
- A. A state or local law enforcement officer shall comply when reasonably able to do so with the following procedures when conducting a custodial interrogation:
- (1) the custodial interrogation shall be electronically recorded in its entirety;
- (2) if conducted in a police station, the custodial interrogation shall be electronically recorded by a method that includes audio or visual or both, if available; and
- (3) the electronic recording shall include the advice of constitutional rights required by law.
- B. A law enforcement officer shall comply with the provisions of this section unless the law enforcement officer has good cause not to electronically record the entire custodial interrogation and makes a contemporaneous written or electronic record of the reasons for not doing so. Good cause includes:

- (1) the electronic recording equipment was not reasonably available;
- (2) the electronic recording equipment failed and obtaining replacement equipment was not feasible;
- (3) the individual refused to be recorded;
- (4) the statement was made in a court proceeding or a grand jury proceeding.
- C. Statements that are spontaneously volunteered and not the result of custodial interrogation are not subject to the provisions of this section.
- D. The provisions of this section shall apply only to custodial interrogations when, at the time of the interrogation, the person is suspected of committing a felony offense.
- E. The provisions of this section do not apply to custodial interrogations conducted outside the state of New Mexico.
- F. The provisions of this section do not apply to statements used for impeachment purposes.
- G. The provisions of this section do not apply within a correctional facility.
 - H. As used in this section:
- (1) "custodial interrogation" means questioning by law enforcement officers that requires the

advice of constitutional rights; and

- (2) "electronic recording" means a complete and authentic electronic recording created by visual or audio media, including by motion picture, videotape, audio tape or digital media.
- I. This section shall not be construed to exclude otherwise admissible evidence in any judicial proceeding.
- Section 2. SEVERABILITY.--If any part of Section 1 of this act is held invalid, the remainder shall not be affected.

Section 3.	EFFECTIVE DATETh	e effective date of the
provisions of thi	s act is January 1,	2006.

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