

HOUSE BILL NO. 6227

December 04, 2024, Introduced by Reps. Pohutsky, Tsernoglou, McFall and Aiyash and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 8 and 9 of chapter III (MCL 763.8 and 763.9),
as added by 2012 PA 479, and by adding section 8a to chapter III.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER III
2 Sec. 8. (1) ~~This~~ **Except as provided in section 8a, this**
3 section applies if the law enforcement agency has audiovisual
4 recording equipment that is operational or accessible as provided

1 in section 11(3) or (4) or upon the expiration of the relevant time
2 periods set forth in section 11(3) or (4), whichever occurs first.

3 (2) A law enforcement official interrogating an individual in
4 custodial detention regarding the individual's involvement in the
5 commission of a major felony shall make a time-stamped, audiovisual
6 recording of the entire interrogation. A major felony recording
7 ~~shall~~**must** include the law enforcement official's notification to
8 the individual of the individual's Miranda rights.

9 (3) An individual who believes the individual's interrogation
10 is being recorded may object to having the interrogation recorded.
11 The individual's objection ~~shall~~**must** be documented either by the
12 individual's objection stated on the recording or the individual's
13 signature on a document stating the objection. If the individual
14 refuses to document the objection either by recording or signature,
15 a law enforcement official shall document the objection by a
16 recording or signed document. A major felony recording may be made
17 without the consent or knowledge of, or despite the objection of,
18 the individual being interrogated.

19 (4) A major felony recording ~~shall~~**must** be produced using
20 equipment and procedures that are designed to prevent alteration of
21 the recording's audio or visual record.

22 (5) Pursuant to any request of discovery, the prosecutor shall
23 provide a copy of the recorded statement to the defense counsel of
24 record or to the defendant if ~~he or she~~**the defendant** is not
25 represented by defense counsel. The court shall not require the
26 police or the prosecutor to prepare or pay for a transcript of a
27 recorded statement. A court or the defense may have a transcript
28 prepared at its own expense.

29 (6) Prior to conviction or acquittal, a statement recorded

1 under this section is exempt from disclosure under the freedom of
2 information act, 1976 PA 442, MCL 15.231 to 15.246.

3 **Sec. 8a. (1) A juvenile must have an attorney present for the**
4 **juvenile's representation during an interrogation in custodial**
5 **detention or any self-incriminating response of the juvenile is**
6 **inadmissible as described in section 17e of chapter XIIA of the**
7 **probate code of 1939, 1939 PA 288, MCL 712A.17e.**

8 **(2) The interrogation of a juvenile in custodial detention**
9 **must be electronically recorded and maintained as described in**
10 **section 17e of chapter XIIA of the probate code of 1939, 1939 PA**
11 **288, MCL 712A.17e. A self-incriminating response of a juvenile**
12 **interrogated while in custodial detention is presumed inadmissible**
13 **if not electronically recorded as described in section 17e of**
14 **chapter XIIA of the probate code of 1939, 1939 PA 288, MCL**
15 **712A.17e.**

16 **Sec. 9. ~~Any~~ Except as otherwise provided in section 8a of this**
17 **chapter, any** failure to record a statement as required under
18 section 8 of this chapter or to preserve a recorded statement does
19 not prevent any law enforcement official present during the taking
20 of the statement from testifying in court as to the circumstances
21 and content of the individual's statement if the court determines
22 that the statement is otherwise admissible. However, unless the
23 individual objected to having the interrogation recorded and that
24 objection was properly documented under section 8(3), the jury
25 ~~shall~~**must** be instructed that it is the law of this state to record
26 statements of an individual in custodial detention who is under
27 interrogation for a major felony and that the jury may consider the
28 absence of a recording in evaluating the evidence relating to the
29 individual's statement.

1 Enacting section 1 This amendatory act takes effect 90 days
2 after the date it is enacted into law.

3 Enacting section 2. This amendatory act does not take effect
4 unless Senate Bill No.____ or House Bill No. 6226 (request no.
5 06043'24) of the 102nd Legislature is enacted into law.