

1 S.297

2 Introduced by Senators Sears, Ashe, and Benning

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedure; innocence protection

6 Statement of purpose of bill as introduced: This bill proposes to require the
7 recording of custodial interrogations in cases of homicide or sexual assault and
8 to establish a task force for making recommendations on how to equip law
9 enforcement for the purpose of compliance with the new recording
10 requirement.

11 An act relating to the recording of custodial interrogations in homicide and
12 sexual assault cases

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 13 V.S.A. chapter 182, subchapter 3 of is added to read:

15 Subchapter 3. Law Enforcement Practices

16 § 5581. ELECTRONIC RECORDING OF A CUSTODIAL

17 INTERROGATION

18 (a) As used in this section:

19 (1) "Custodial interrogation" means any interrogation:

1 (A) involving questioning by a law enforcement officer that is
2 reasonably likely to elicit an incriminating response from the subject; and

3 (B) in which a reasonable person in the subject's position would
4 consider himself or herself to be in custody, starting from the moment a person
5 should have been advised of his or her Miranda rights and ending when the
6 questioning has concluded.

7 (2) "Electronic recording" or "electronically recorded" means an audio
8 and visual recording that is an authentic, accurate, unaltered record of a
9 custodial interrogation.

10 (3) "Place of detention" means a law enforcement, correctional, or
11 detention facility, or other place where a person is questioned in connection
12 with a criminal charge or delinquent act.

13 (4) "Statement" means an oral, written, sign language, or nonverbal
14 communication.

15 (b) A custodial interrogation that occurs in a place of detention concerning
16 the investigation of a felony violation of chapter 53 (homicide) or 72 (sexual
17 assault) of this title shall be electronically recorded. The recording shall
18 simultaneously record both the interrogator and the person being interrogated.

1 Sec. 2. TASK FORCE

2 (a) Creation. There is created an Interrogation Practices Task Force to plan
3 for the implementation of Sec. 1 of this act, 13 V.S.A. § 5581 (electronic
4 recording of a custodial interrogation).

5 (b) Membership. The Task Force shall be composed of the following seven
6 members:

7 (1) the Commissioner of Public Safety or his or her designee;

8 (2) the Director of the Criminal Justice Training Council or his or her
9 designee;

10 (3) a Sheriff appointed by the Vermont Sheriffs' Association;

11 (4) a Chief of Police appointed by the Vermont Association of Chiefs of
12 Police;

13 (5) the Attorney General or his or her designee;

14 (6) The Defender General or his or her designee;

15 (7) a representative appointed by The Innocence Project.

16 (c) Powers and duties. The Task Force, in consultation with practitioners
17 and experts in recording interrogations, shall assess the scope and location of
18 the current inventory of recording equipment in Vermont. The Task Force
19 shall develop recommendations, including funding options, regarding how to
20 equip adequately law enforcement with the recording devices necessary to

1 carry out Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a
2 custodial interrogation).

3 (d) Assistance. The Task Force shall have the administrative, technical,
4 and legal assistance of the Department of Public Safety.

5 (e) Report. On or before October 1, 2014, the Task Force shall submit a
6 written report to the Senate and House Committees on Judiciary with its
7 recommendations for implementation of Sec. 1. of this act, 13 V.S.A. § 5581
8 (electronic recording of a custodial interrogation).

9 (f) Meetings.

10 (1) The Commissioner of the Department of Public Safety shall call the
11 first meeting of the Task Force to occur on or before June 1, 2014.

12 (2) The Committee shall select a chair from among its members at the
13 first meeting.

14 (3)(A) A majority of the members of the Task Force shall be physically
15 present at the same location to constitute a quorum.

16 (B) A member may vote only if physically present at the meeting
17 location.

18 (C) Action shall be taken only if there is both a quorum and a
19 majority vote of all members of the Task Force.

20 (4) The Task Force shall cease to exist on December 31, 2014.

1 Sec. 3. EFFECTIVE DATES

2 Sec. 1 shall take effect on July 1, 2015 and the remaining sections shall take
3 effect on passage.