

Amendment to HB 1540-FN

1 Amend RSA 594-A:2, I as inserted by section 1 of the bill by replacing it with the following:

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3 I. "Custodial interrogation" means express questioning associated with a formal arrest or a
4 restraint on freedom that is the functional equivalent of an arrest, or other actions or words by a law
5 enforcement officer which are reasonably likely to elicit an incriminating response from an
6 individual and occurs when reasonable individuals in the same circumstances would consider
7 themselves in custody.

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9 Amend RSA 594-A:2, IV as inserted by section 1 of the bill by replacing it with the following:

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11 IV. "Law enforcement officer" means a sheriff or deputy sheriff of any county, a state police
12 trooper, constable or police officer of any city or town, a conservation officer, a probation officer, a
13 parole officer, a corrections officer, or a security officer employed by an educational institution who
14 has the power to detain an individual.

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16 Amend RSA 594-A:3 and 594-A:4 as inserted by section 1 of the bill by replacing them with the
17 following:

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19 594-A:3 Electronic Recording Equipment.

20 I. Except as otherwise provided in RSA 594-A:4, a custodial interrogation, including the
21 giving of any required warning, advice regarding the rights of the individual being questioned, and
22 the waiver of any rights by the individual, shall be recorded electronically in its entirety. A custodial
23 interrogation at a jail, police or sheriff's station, holding cell, or correctional or detention facility
24 shall be recorded by audio and video means. A custodial interrogation at any other place of
25 detention shall be recorded by audio means at minimum.

26 II. This section shall not apply to an administrative disciplinary hearing in a state
27 correctional facility or to a parole violator not charged with a new offense.

28 594-A:4 Exceptions.

29 I. If a custodial interrogation occurs in another state in compliance with that state's law or
30 is conducted by a federal law enforcement agency in compliance with federal law, the interrogation
31 need not be recorded electronically unless the interrogation is conducted with intent to avoid the
32 requirement of electronic recording in RSA 594-A:3.

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1 II. If an individual to be interrogated requests that the interrogation not be recorded, or if
2 the individual being interrogated indicates that the individual will not participate in further
3 interrogation unless electronic recording ceases, the interrogation need not be recorded electronically
4 provided that this request is preserved by electronic recording or in a written document that is
5 signed by the individual. A law enforcement officer, with intent to avoid the requirement of
6 electronic recording in RSA 594-A:3 shall not encourage an individual to request that a recording not
7 be made.

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AMENDED ANALYSIS

This bill requires the recording of custodial interrogations and specifies exceptions in certain circumstances.