



SENATE BILL 640: Various Criminal Procedure Changes.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 27, 2023
Introduced by:	Sens. Britt, B. Newton, Daniel	Prepared by:	Robert Ryan
Analysis of:	Second Edition		Anna Parsons Staff Attorney

OVERVIEW: *Senate Bill 640 would expand provisions surrounding the electronic recording of custodial interrogations in places of detention, would require the office of the district attorney be notified of any CODIS matches, and would require the recording of law enforcement interviews with certain informants who are in custody.*

Section 1

CURRENT LAW: G.S. 15A-211 currently requires custodial interrogations of juveniles in criminal investigations, and custodial interrogations of any person involved in an investigation related to a Class A, B1, or B2 felony, and specific Class C felonies, be electronically recorded when the interrogation is conducted at any place of detention. The recording must include the entirety of the interrogation and both audio and visual components, when feasible.

Any statement made by a defendant during a custodial interrogation may be presented as evidence if an electronic recording was made of the interrogation in its entirety and if the statement is otherwise admissible. Any statement made by a defendant during or after a custodial interrogation that was not electronically recorded may be questioned regarding the voluntariness and reliability of the statement.

The remainder of G.S. 15A-211 discusses the remedies available for noncompliance with the electronic recording requirement; statements whose admission is not precluded by the Article; and destruction of recordings after appeals have been exhausted.

BILL ANALYSIS: **Section 1** of Senate Bill 640 would modify G.S. 15A-211 so that the electronic recording requirements would be applicable to all law enforcement custodial interrogations of any person in a felony criminal investigation conducted at any place of detention.

Section 1 would also require recordings of non-defendant custodial interrogations be provided to a juvenile or defendant as part of discovery requirements; allow recordings of non-defendant interrogations to be destroyed at the conclusion of the State appeal process; and makes technical and conforming changes.

Section 1 would become effective October 1, 2023, and apply to custodial interrogations occurring on or after that date.

Section 2

CURRENT LAW: G.S. 15A-266.7 requires the North Carolina State Crime Laboratory (Crime Laboratory) to adopt procedures related to the collection, security, submission, identification, analysis, and storage of DNA samples and to adopt quality assurance guidelines. All DNA samples are stored in the State DNA Databank and testing records kept on file at the Crime Laboratory. DNA profiles are

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accessible through Combined DNA Index System (CODIS), a national system of DNA profiles created and maintained by the Federal Bureau of Investigation.

BILL ANALYSIS: Section 2 of Senate Bill 640 would require the Crime Laboratory to notify the office of the district attorney for all CODIS matches.

Section 2 would become effective October 1, 2023.

Section 3

BILL ANALYSIS: Section 3 of Senate Bill 640 would create a new statute, G.S. 15A-981, that contains procedures that govern the taking of a statement from an in-custody informant. Specifically, this new law would require that all interviews of an in-custody informant must be video recorded and clearly show both the interviewer and the in-custody informant. "In-custody informant" is a defined term which means a person, other than a defendant, accomplice, or co-conspirator, whose testimony is based on statements made by the defendant while the defendant and the in-custody informant are incarcerated together.

Section 3 becomes effective October 1, 2023, and applies to offense committed on or after that date.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.