

**UPDATED SUMMARY
HOUSE BILL 16-1117**

Second Regular Session - Seventieth Colorado General Assembly

This summary applies to the reengrossed version of this bill as introduced in the second house. It does not reflect any amendments that may be subsequently adopted. This summary reflects only the main points of the legislation.

The bill requires all law enforcement agencies to have audio-visual recording equipment available and policies and procedures in place for preserving custodial interrogations by ~~January~~ *July 1*, 2017. A peace officer must record custodial interrogations occurring in a permanent detention facility if the peace officer is investigating a class 1 or 2 felony or a felony sexual assault. A peace officer does not have to record the interrogation if:

- ! The defendant requests that the interrogation not be recorded and the defendant's request is preserved by electronic recording or in writing;
- ! The recording equipment fails;
- ! The recording equipment is unavailable, either through damage or extraordinary circumstances;
- ! Exigent circumstances related to public safety prevent recording; or
- ! The interrogation takes place outside of Colorado.

The court may admit evidence from a custodial interrogation that is not recorded. When offering evidence from an unrecorded interrogation, if the prosecution shows by a preponderance of the evidence that one of the exceptions apply or that the evidence is offered as rebuttal or impeachment evidence, the court may admit the evidence without a cautionary instruction. If the prosecution does not meet that burden, the court shall issue a cautionary instruction to the jury after admitting the evidence.

The bill appropriates \$24,700 to the department of corrections to implement the bill.