

~~(D) (1) ELECTRONIC RECORDING OF A STATEMENT UNDER SUBSECTION (C) OF THIS SECTION IS NOT REQUIRED IF:~~

~~(H) THE STATEMENT IS MADE:~~

~~1. SPONTANEOUSLY OUTSIDE THE COURSE OF A CUSTODIAL INTERROGATION;~~

~~2. IN RESPONSE TO QUESTIONING THAT IS ROUTINELY CONDUCTED DURING THE PROCESSING OF AN ARREST; OR~~

~~3. AT A TIME WHEN THE PERSON BEING INTERROGATED IS NOT A SUSPECT FOR THE CRIME TO WHICH THE STATEMENT RELATES WHILE THE PERSON IS BEING INTERROGATED FOR A CRIME OTHER THAN A CRIME SPECIFIED IN SUBSECTION (C) OF THIS SECTION; OR~~

~~(H) 1. THE CUSTODIAL INTERROGATION IS CONDUCTED OUT OF STATE;~~

~~2. THE CUSTODIAL INTERROGATION DURING WHICH A STATEMENT IS GIVEN OCCURS AT A TIME WHEN THE INTERROGATOR HAS NO KNOWLEDGE THAT THE PERSON BEING INTERROGATED MAY HAVE BEEN INVOLVED IN A CRIME FOR WHICH RECORDING IS REQUIRED; OR~~

~~3. THE INTERROGATOR IN GOOD FAITH FAILS TO MAKE AN ELECTRONIC RECORDING OF THE CUSTODIAL INTERROGATION BECAUSE:~~

~~A. THE RECORDING EQUIPMENT DOES NOT FUNCTION AND OTHER EQUIPMENT IS NOT READILY AVAILABLE;~~

~~B. THE INTERROGATOR INADVERTENTLY FAILS TO OPERATE THE EQUIPMENT PROPERLY; OR~~

~~C. THE EQUIPMENT MALFUNCTIONS OR STOPS OPERATING WITHOUT THE INTERROGATOR'S KNOWLEDGE.~~

~~(2) THE STATE SHALL BEAR THE BURDEN OF PROVING, BY A PREPONDERANCE OF THE EVIDENCE, THAT AN EXCEPTION LISTED IN PARAGRAPH (1) OF THIS SUBSECTION IS APPLICABLE.~~

~~(E) (1) IF THE STATE INTENDS TO RELY ON AN EXCEPTION SET FORTH IN SUBSECTION (D) OF THIS SECTION IN OFFERING A DEFENDANT'S~~