

118TH CONGRESS  
1ST SESSION

# H. R. 5736

To require interviews conducted by officers and employees of Federal law enforcement agencies to be recorded.

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2023

Mr. TIFFANY introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To require interviews conducted by officers and employees of Federal law enforcement agencies to be recorded.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Accountability  
5 in Interviews Reform Act” or as the “FAIR Act”.

6 **SEC. 2. AUDIO RECORDING OF INTERVIEWS CONDUCTED**

7 **BY CERTAIN FEDERAL LAW ENFORCEMENT**  
8 **OFFICERS.**

9 (a) IN GENERAL.—The Attorney General shall re-  
10 quire the recording, using an electronic audio recording

1 technology, of each interview of a United States citizen  
2 who is suspected of having committed a criminal offense  
3 conducted by an officer or employee of the Department  
4 of Justice in connection with an investigation of a Federal  
5 offense or an investigation with respect to which the De-  
6 partment is assisting a State, local, or tribal law enforce-  
7 ment agency.

8 (b) APPLICATION.—

9 (1) CUSTODIAL AND NON-CUSTODIAL INTER-  
10 VIEWS.—The requirements under this section apply  
11 with respect to any custodial and non-custodial  
12 interview, but do not apply with respect to commu-  
13 nication with a confidential informant.

14 (2) EXTRATERRITORIAL APPLICATION.—The re-  
15 quirements under this section apply with respect to  
16 any interview of a United States citizen outside of  
17 the United States conducted by an officer or em-  
18 ployee of the Department of Justice.

19 (c) NOTIFICATION, CONSENT NOT REQUIRED.—An  
20 officer or employee of the Department of Justice may  
21 record an interview described in this section without pro-  
22 viding notice to or obtaining consent from the interviewee.

23 (d) INADMISSIBILITY.—A statement or information  
24 obtained during an interview that is not recorded in ac-

1 cordance with this section may not be offered as evidence  
2 by the Government in Federal court.

3 (e) RETENTION.—

4 (1) IN GENERAL.—Except as provided in para-  
5 graph (2), a recording of an interview described in  
6 this section shall be retained for a period of 10 years  
7 beginning on the date on which the applicable inves-  
8 tigation or any related judicial procedures is finally  
9 concluded, whichever is later.

10 (2) EXCEPTION.—A recording of an interview  
11 described in this section shall be retained indefinitely  
12 if the content of the recording is related to a judicial  
13 proceeding that involves a Federal capital offense or  
14 a State capital offense with respect to which the  
15 Federal law enforcement officer was assisting the  
16 law enforcement agency of the jurisdiction in which  
17 the offense occurred.

18 (f) RULES.—The Attorney General shall finalize rules  
19 to carry out this section not later than 180 days after the  
20 date of enactment of this Act.

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