

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act preventing false confessions.

PETITION OF:

NAME:

Patricia D. Jehlen

DISTRICT/ADDRESS:

Second Middlesex

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3922 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act preventing false confessions.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 119 of the General Laws is hereby amended by inserting after
2 section 89 the following sections:

3 Section 90. Prohibition on use of deception during juvenile interrogations

4 (a) As used in this section the following words shall, unless the context clearly requires
5 otherwise, have the following meanings:

6 "Deception", communicating, or relaying in any way, false or misleading facts, false or
7 misleading information, false or misleading evidence, unauthorized implicit or explicit offers of
8 leniency or any other circumstance found by a court to mislead the person being questioned.

9 "Interrogation", any questioning by law enforcement officers, or persons acting on behalf
10 of a law enforcement officer, in relation to an investigation of a misdemeanor or felony.

11 “Statement”, an oral assertion, written assertion or nonverbal conduct if intended as an
12 assertion.

13 (b) Any statement made by a juvenile during an interrogation shall be presumed to be
14 involuntary in any juvenile or criminal court where such statement is offered as evidence if
15 during the interrogation a law enforcement officer, or person acting on behalf of a law
16 enforcement officer, knowingly or recklessly engages in deception. Any such statement and any
17 evidence that flows from that statement shall be presumed inadmissible.

18 (c) The presumption that a statement, evidence or both, as described in subsection (b), is
19 inadmissible, may be overcome if the commonwealth proves, beyond a reasonable doubt, that the
20 statement was voluntary reliable, and not a byproduct of any deception. A failure to
21 electronically record a statement shall be a factor for the court to consider in determining
22 whether the commonwealth can meet its burden.

23 (d) Nothing in this section shall abrogate the commonwealth’s burden to prove a
24 statement is voluntary and reliable prior to introducing that statement into evidence.

25 (e) Subsections (b) through (d), inclusive, shall apply to all statements made on or after
26 the effective date of this statute.

27 Section 91. Recording of Juvenile Interrogations

28 (a) As used in this section, the following words shall, unless the context clearly requires
29 otherwise, have the following meanings:

30 “Interrogation”, any questioning by law enforcement officers, or persons acting on behalf
31 of a law enforcement officer, in relation to an investigation.

32 “Place of Detention”, a jail, police or sheriff’s station, holding cell, correctional or
33 detention facility or other place where persons are held in connection with delinquency or
34 criminal charges.

35 “Recording”, an audio and visual that creates an authentic, accurate, unaltered record of
36 what transpired during an interrogation, capturing all parties involved in a custodial
37 interrogation, beginning with any information by law enforcement about the purpose of the
38 questioning or state of the investigation, including law enforcement officer’s recitation of the
39 person’s constitutional rights, and ending when the interview is completed.

40 (b) All statements made by a person during a custodial interrogation in a place of
41 detention or during protective custody relating to a delinquency proceeding or crime shall be
42 electronically recorded. Failure to electronically record shall make any statement made during
43 such custodial interrogation or any evidence resulting from the statement inadmissible.

44 (c) All statements made by a person during an interrogation should be recorded when
45 feasible.

46 (d) The presumption that such statement, as described in subsection (b), is inadmissible,
47 may be overcome if the commonwealth proves that recording was not possible under the
48 circumstances.

49 (e) Lack of economic resources relative to the implementation of recording shall not be
50 considered grounds to conclude that recording was not possible under section (d).

51 SECTION 2. Chapter 233 of the General Laws is hereby amended by adding the
52 following section:

53 Section 84. (a) As used in this section the following words shall, unless the context
54 clearly requires otherwise, have the following meanings:

55 "Deception", communicating, or relaying in any way, false or misleading facts, false or
56 misleading information, false or misleading evidence, unauthorized implicit or explicit offers of
57 leniency or any other circumstance found by a court to mislead the person being questioned.

58 "Interrogation", any questioning by law enforcement officers, or persons acting on behalf
59 of a law enforcement officer, in relation to an investigation of a misdemeanor or felony.

60 "Statement", an oral assertion, written assertion or nonverbal conduct if intended as an
61 assertion.

62 (b) Any statement made during an interrogation shall be presumed to be involuntary in
63 any court where such statement is offered as evidence in a criminal proceeding if during the
64 interrogation a law enforcement officer, or person acting on behalf of a law enforcement officer,
65 knowingly or recklessly engages in deception. Any such statement and any evidence that flows
66 from that statement shall be presumed inadmissible.

67 (c) The presumption that such statement and/or evidence, as described in subsection (b),
68 is inadmissible, may be overcome if the commonwealth proves, beyond a reasonable doubt, that
69 the statement was voluntary, reliable and not a byproduct of any deception. A failure to
70 electronically record a statement shall be a factor for the court to consider in determining
71 whether the commonwealth can meet its burden.

72 (d) Nothing in this section shall abrogate the commonwealth's burden to prove a
73 statement is voluntary and reliable prior to introducing that statement into evidence.

74 (e) Subsections (b) through (d), inclusive, shall apply to all statements made on or after
75 the effective date of this statute.

76 SECTION 3. Chapter 263 of the General Laws is hereby amended by inserting after
77 section 1A the following section:

78 Section 1B. (a) As used in this section, the following words shall, unless the context
79 clearly requires otherwise, have the following meanings:

80 “Interrogation”, any questioning by law enforcement officers, or persons acting on behalf
81 of a law enforcement officer, in relation to an investigation.

82 “Place of Detention”, a jail, police or sheriff’s station, holding cell, correctional or
83 detention facility or other place where persons are held in connection with criminal charges.

84 “Recording”, an audio and visual that creates an authentic, accurate, unaltered record of
85 what transpired during an interrogation, capturing all parties involved in a custodial
86 interrogation, beginning with any information by law enforcement about the purpose of the
87 questioning or state of the investigation, including law enforcement officer’s recitation of the
88 person’s constitutional rights, and ending when the interview is completed.

89 (b) All statements made by a person during a custodial interrogation in a place of
90 detention or during protective custody relating to a crime shall be electronically recorded. Failure
91 to electronically record shall make any statement made during such custodial interrogation or
92 any evidence resulting from the statement inadmissible.

93 (c) All statements made by a person during an interrogation should be recorded when
94 feasible.

95 (d) The presumption that such statement, as described in subsection (b), is inadmissible,
96 may be overcome if the commonwealth proves that recording was not possible under the
97 circumstances.

98 (e) Lack of economic resources relative to the implementation of recording shall not be
99 considered grounds to conclude that recording was not possible under section (d).

100 SECTION 4. Nothing in this Act shall conflict with or abrogate the rights afforded to a
101 minor child under any other law.

102 SECTION 5. This act shall take effect as of July 31, 2027, and shall apply to all
103 statements made on or after that effective date.