

House Engrossed Senate Bill

record of proceedings; electronic recording

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1267

AN ACT

AMENDING SECTION 38-424, ARIZONA REVISED STATUTES; RELATING TO ELECTRONIC RECORDING DEVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-424, Arizona Revised Statutes, is amended to
3 read:

4 38-424. Use of electronic recording devices; use of court
5 reporter or stenographer; official record; presumed
6 remedy for deficient electronic record

7 A. EXCEPT AS PROVIDED IN TITLE 21, CHAPTER 4, TITLE 36, CHAPTER 5,
8 AND SUBSECTIONS B AND C OF THIS SECTION, this state or any agency of this
9 state, including the judiciary, and each political subdivision of this
10 state, including any courts of law, may for any purpose use ~~tape recorders~~
11 ~~or other~~ ELECTRONIC recording devices in lieu of COURT reporters or
12 stenographers. ~~This section does not apply if the matter to be recorded~~
13 ~~arises out of court proceedings and either party requests that a court~~
14 ~~reporter or stenographer be used.~~

15 B. IF REQUESTED BY EITHER PARTY IN WRITING AT LEAST FIVE COURT DAYS
16 BEFORE A TRIAL OR HEARING ARISING OUT OF AN INDICTMENT OR INFORMATION AND
17 A COURT REPORTER OR STENOGRAPHER IS AVAILABLE ON THE DAY OF THE TRIAL OR
18 HEARING, A COURT REPORTER OR STENOGRAPHER SHALL BE USED, EXCEPT THAT IF
19 THE COURT FINDS A TRIAL IS REQUIRED TO START WITHIN THE FIVE DAYS IN ORDER
20 TO COMPLY WITH A VICTIM'S OR DEFENDANT'S RIGHT TO A SPEEDY TRIAL, THE
21 COURT MAY COMMENCE THE TRIAL USING AN ELECTRONIC RECORDING DEVICE.

22 C. IF REQUESTED BY EITHER PARTY IN WRITING AT LEAST FIVE COURT DAYS
23 BEFORE A TRIAL OR HEARING HELD PURSUANT TO TITLE 36, CHAPTER 37 AND A
24 COURT REPORTER OR STENOGRAPHER IS AVAILABLE ON THE DAY OF THE TRIAL OR
25 HEARING, A COURT REPORTER OR STENOGRAPHER SHALL BE USED.

26 D. EITHER PARTY MAY PROVIDE A COURT REPORTER OR STENOGRAPHER IN
27 ADDITION TO THE ELECTRONIC RECORDING DEVICE THAT IS USED BY A COURT TO
28 RECORD THE PROCEEDINGS. THE OFFICIAL RECORD OF THE PROCEEDINGS IS THE
29 RECORD PREPARED BY THE COURT REPORTER. IF NO COURT REPORTER IS AVAILABLE,
30 THE OFFICIAL RECORD OF THE PROCEEDINGS IS THE RECORD PREPARED BY THE COURT
31 PURSUANT TO RULES ADOPTED BY THE SUPREME COURT.

32 E. IF AN ELECTRONIC RECORDING DEVICE IS USED IN A TRIAL OR HEARING
33 ARISING OUT OF AN INDICTMENT OR INFORMATION, ON THE REQUEST OF EITHER
34 PARTY, THE COURT SHALL HOLD A HEARING TO DETERMINE IF THERE IS A
35 DEFICIENCY IN THE ELECTRONIC RECORD OF THE PROCEEDING AND WHETHER THE
36 DEFICIENCY PREJUDICED A PARTY. IF THE COURT FINDS THAT A DEFICIENCY IN
37 THE ELECTRONIC RECORD PREJUDICED A PARTY, THE COURT SHALL PRESUME THAT THE
38 PREJUDICED PARTY IS ENTITLED TO A NEW TRIAL OR PHASE OF TRIAL PURSUANT TO
39 RULE 24 OF THE ARIZONA RULES OF CRIMINAL PROCEDURE.