

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY M. _____

Strike all that follows after the enacting clause, and
insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Federal Accountability
3 in Interviews Reform Act of 2023” or as the “FAIR Act
4 of 2023”.

5 SEC. 2. AUDIO RECORDING OF INTERVIEWS CONDUCTED
6 BY CERTAIN FEDERAL LAW ENFORCEMENT
7 OFFICERS.

8 (a) IN GENERAL.—The Attorney General shall re-
9 quire the recording, using an electronic audio recording
10 technology, of each interview of a United States citizen
11 who is suspected of having committed a criminal offense
12 conducted by an officer or employee of the Department
13 of Justice in connection with an investigation of a Federal
14 offense or an investigation with respect to which the De-
15 partment is assisting a State, local, or tribal law enforce-
16 ment agency.

17 (b) APPLICATION.—

1 (1) CUSTODIAL AND NON-CUSTODIAL INTER-
2 VIEWS.—The requirements under this section apply
3 with respect to any custodial and non-custodial
4 interview, but do not apply with respect to commu-
5 nication with a confidential informant.

6 (2) EXTRATERRITORIAL APPLICATION.—The re-
7 quirements under this section apply with respect to
8 any interview of a United States citizen outside of
9 the United States conducted by an officer or em-
10 ployee of the Department of Justice.

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

15 (d) INADMISSIBILITY.—A statement or information
16 obtained during an interview that is not recorded in ac-
17 cordance with this section may not be offered as evidence
18 by the Government in Federal court.

19 (e) RETENTION.—

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

1 (2) EXCEPTION.—A recording of an interview
2 described in this section shall be retained indefinitely
3 if the content of the recording is related to a judicial
4 proceeding that involves a Federal capital offense or
5 a State capital offense with respect to which the
6 Federal law enforcement officer was assisting the
7 law enforcement agency of the jurisdiction in which
8 the offense occurred.

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

