

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0750.01 Jerry Barry x4341

HOUSE BILL 23-1155

HOUSE SPONSORSHIP

Weissman and Bacon, Soper

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADVISEMENT OF RIGHTS DURING A CUSTODIAL**
102 **INVESTIGATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires that, for a statement made during a custodial interrogation to be admissible against the accused in a criminal proceeding, the accused must be advised of specified rights prior to making the statement.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 16-3-406 as
3 follows:

4 **16-3-406. Custodial interrogation - admissibility - legislative**
5 **declaration - definition.** (1) THE GENERAL ASSEMBLY FINDS AND
6 DECLARES THAT:

7 (a) THE UNITED STATES CONSTITUTION AND THE STATE
8 CONSTITUTION DECLARE A PRIVILEGE AGAINST SELF-INCRIMINATION AND
9 A RIGHT TO COUNSEL TO BE FUNDAMENTAL RIGHTS;

10 (b) WITHOUT PROCEDURAL SAFEGUARDS, CUSTODIAL
11 INTERROGATION BY LAW ENFORCEMENT CAN LEAD TO INHERENTLY
12 COMPELLING PRESSURES THAT WORK TO UNDERMINE THE WILL OF THE
13 INDIVIDUAL SUBJECTED TO THE INTERROGATION;

14 (c) PRIOR TO CUSTODIAL INTERROGATION, AN INDIVIDUAL MUST BE
15 CLEARLY AND UNEQUIVOCALLY APPRISED OF THE INDIVIDUAL'S RIGHTS;

16 (d) THE EXERCISE OF THESE RIGHTS PRIOR TO OR DURING
17 CUSTODIAL INTERROGATION MUST BE FULLY HONORED;

18 (e) IN *MIRANDA V. ARIZONA*, 384 U.S. 436 (1966), THE UNITED
19 STATES SUPREME COURT RECOGNIZED PROCEDURAL SAFEGUARDS AND
20 THAT AN ADVISEMENT MUST BY GIVEN PRIOR TO ANY CUSTODIAL
21 INTERROGATION IN ORDER FOR STATEMENTS FROM THAT CUSTODIAL
22 INTERROGATION TO BE ADMITTED AT TRIAL BY THE PROSECUTION;

23 (f) THE COURT FURTHER STATED IN *MIRANDA* THAT STATES ARE
24 FREE TO DEVELOP THEIR OWN SAFEGUARDS CONSISTENT WITH *MIRANDA*;

25 (g) IN THE DECADES THAT HAVE FOLLOWED *MIRANDA V. ARIZONA*,
26 EXPERIENCE HAS DEMONSTRATED THAT PROCEDURAL SAFEGUARDS TO
27 INFORM INDIVIDUALS OF THEIR RIGHTS AND TO HONOR EXERCISE OF THEIR

1 RIGHTS ARE BENEFICIAL AND JUST;

2 (h) COLORADO SHOULD JOIN OTHER STATES THAT HAVE CODIFIED

3 SUCH PROCEDURAL SAFEGUARDS; AND

4 (i) IT IS THE INTENT OF GENERAL ASSEMBLY THAT COLORADO

5 SHOULD THEREFORE PROVIDE INDEPENDENT STATUTORY PROTECTION

6 CONSISTENT WITH *MIRANDA* IN NO GREATER OR LESSER DEGREE.

7 (2) AS USED IN THIS SECTION, "CUSTODIAL INTERROGATION" HAS

8 THE SAME MEANING AS SET FORTH IN SECTION 16-3-601.

9 (3) A COURT SHALL NOT ADMIT A STATEMENT MADE BY THE

10 DEFENDANT AS A RESULT OF A CUSTODIAL INTERROGATION AS EVIDENCE

11 AGAINST THE DEFENDANT IN ANY CRIMINAL TRIAL UNLESS THE

12 DEFENDANT, PRIOR TO MAKING THE STATEMENT, WAS ADVISED IN A

13 MANNER THAT REASONABLY CONVEYED THE FOLLOWING WARNINGS:

14 (a) YOU HAVE THE RIGHT TO REMAIN SILENT;

15 (b) ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN

16 A COURT OF LAW;

17 (c) YOU HAVE THE RIGHT TO CONSULT A LAWYER PRIOR TO

18 QUESTIONING AND HAVE THE LAWYER PRESENT DURING QUESTIONING;

19 (d) IF YOU CANNOT AFFORD TO HIRE A LAWYER, A LAWYER WILL

20 BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU

21 REQUEST ONE; AND

22 (e) YOU CAN STOP THE INTERVIEW AND REQUEST TO REMAIN

23 SILENT OR REQUEST A LAWYER AT ANY TIME BEFORE OR DURING

24 QUESTIONING.

25 (4) WHEN PROPERLY RAISED BY THE DEFENDANT PURSUANT TO

26 RULES PROMULGATED BY THE COLORADO SUPREME COURT, THE

27 PROSECUTION HAS THE BURDEN OF ESTABLISHING BY A PREPONDERANCE

1 OF THE EVIDENCE THAT THE DEFENDANT MADE A KNOWING, INTELLIGENT,
2 AND VOLUNTARY WAIVER OF THE RIGHTS DESCRIBED IN SUBSECTION (3)
3 OF THIS SECTION.

4 (5) NOTHING IN THIS SECTION PRECLUDES THE ADMISSION OF A
5 VOLUNTARY STATEMENT TO IMPEACH THE CREDIBILITY OF THE
6 DEFENDANT AS A WITNESS.

7 (6) NOTHING IN THIS SECTION PRECLUDES THE ADMISSION OF A
8 VOLUNTARY STATEMENT WHEN THE PROSECUTION PROVES BY A
9 PREPONDERANCE OF THE EVIDENCE THAT AN EXCEPTION RECOGNIZED
10 THROUGH THE PROGENY OF *MIRANDA V. ARIZONA*, 384 U.S. 436 (1966)
11 APPLIES, INCLUDING THE PUBLIC SAFETY EXCEPTION OR BOOKING
12 EXCEPTION.

13 **SECTION 2. Effective date.** This act takes effect July 1, 2023.

14 **SECTION 3. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety.