HOUSE BILL 23-1155

BY REPRESENTATIVE(S) Weissman and Bacon, Soper, Brown, deGruy Kennedy, Dickson, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Joseph, Lieder, Lindsay, Mabrey, Marshall, Martínez, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Sirotà, Story, Titone, Velasco, Willford; also SENATOR(S) Gonzales, Baisley, Bridges, Buckner, Coleman, Cutter, Exum, Fields, Hansen, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Moreno, Mullica, Pelton B., Priola, Roberts, Van Winkle.

CONCERNING THE ADVISEMENT OF RIGHTS DURING A CUSTODIAL INVESTIGATION.

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

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

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

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

(b) WITHOUT PROCEDURAL SAFEGUARDS, CUSTODIAL
INTERROGATION BY LAW ENFORCEMENT CAN LEAD TO INHERENTLY
COMPPELLING PressURES THAT WORK TO UNDERMINE THE WILL OF THE
INDIVIDUAL SUBJECTED TO THE INTERROGATION;

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

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

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

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

(g) IN THE DECADES THAT HAVE FOLLOWED MIRANDA V. ARIZONA,
EXPERIENCE HAS DEMONSTRATED THAT PROCEDURAL SAFEGUARDS TO
INFORM INDIVIDUALS OF THEIR RIGHTS AND TO HONOR EXERCISE OF THEIR
RIGHTS ARE BENEFICIAL AND JUST;

(h) COLORADO SHOULD JOIN OTHER STATES THAT HAVE CODIFIED
SUCH PROCEDURAL SAFEGUARDS; AND

(i) IT IS THE INTENT OF GENERAL ASSEMBLY THAT COLORADO
SHOULD THEREFORE PROVIDE INDEPENDENT STATUTORY PROTECTION
CONSISTENT WITH MIRANDA IN NO GREATER OR LESSER DEGREE.

(2) AS USED IN THIS SECTION, "CUSTODIAL INTERROGATION" HAS THE
SAME MEANING AS SET FORTH IN SECTION 16-3-601.

(3) A COURT SHALL NOT ADMIT A STATEMENT MADE BY THE
DEFENDANT AS A RESULT OF A CUSTODIAL INTERROGATION AS EVIDENCE
AGAINST THE DEFENDANT IN ANY CRIMINAL TRIAL UNLESS THE DEFENDANT, PRIOR TO MAKING THE STATEMENT, WAS ADVISED IN A MANNER THAT REASONABLY CONVEYED THE FOLLOWING WARNINGS:

(a) YOU HAVE THE RIGHT TO REMAIN SILENT;

(b) ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW;

(c) YOU HAVE THE RIGHT TO CONSULT A LAWYER PRIOR TO QUESTIONING AND HAVE THE LAWYER PRESENT DURING QUESTIONING;

(d) IF YOU CANNOT AFFORD TO HIRE A LAWYER, A LAWYER WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU REQUEST ONE; AND

(e) YOU CAN STOP THE INTERVIEW AND REQUEST TO REMAIN SILENT OR REQUEST A LAWYER AT ANY TIME BEFORE OR DURING QUESTIONING.

(4) WHEN PROPERLY RAISED BY THE DEFENDANT PURSUANT TO RULES PROMULGATED BY THE COLORADO SUPREME COURT, THE PROSECUTION HAS THE BURDEN OF ESTABLISHING BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT MADE A KNOWING, INTELLIGENT, AND VOLUNTARY WAIVER OF THE RIGHTS DESCRIBED IN SUBSECTION (3) OF THIS SECTION.

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

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

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

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

Julie McChuskie  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

Steve Fenberg  
PRESIDENT OF THE SENATE

Robin Jones  
CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

Cindi L. Markwell  
SECRETARY OF THE SENATE

APPROVED Monday May 19, 2023 at 7:00 PM  
(Date and Time)

Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

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