

CHAPTER 306

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 19-1315

BY REPRESENTATIVE(S) Gonzales-Gutierrez and Michaelson Jenet, Benavidez, Herod, Soper, Bird, Buentello, Caraveo, Cutter, Duran, Esgar, Exum, Froelich, Galindo, Hansen, Hooton, Jackson, Kennedy, Kraft-Tharp, Melton, Mullica, Sirota, Snyder, Sullivan, Valdez A., Weissman, Buckner, Coleman, Garnett, Gray, Jaquez Lewis, Kipp, Sandridge, Titone;
also SENATOR(S) Gonzales, Cooke, Court, Fields, Gardner, Lee, Lundeen, Marble, Moreno, Pettersen, Priola, Smallwood, Tate, Garcia.

AN ACT**CONCERNING THE ADMISSIBILITY OF STATEMENTS BY A JUVENILE.**

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

SECTION 1. In Colorado Revised Statutes, 19-2-511, **add** (7) as follows:

19-2-511. Statements - definition. (7) (a) NOTWITHSTANDING ANY PROVISIONS OF THIS SECTION TO THE CONTRARY, IF THE JUVENILE ASSERTS THAT STATEMENTS MADE DURING THE CUSTODIAL INTERROGATION ARE INADMISSIBLE BECAUSE A RESPONSIBLE ADULT HAD AN INTEREST ADVERSE TO THE JUVENILE, THE PROSECUTION, AS PART OF ITS BURDEN OF PROOF AT A HEARING ON A MOTION TO SUPPRESS THE STATEMENTS, MUST SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT THE PERSON INTERROGATING THE JUVENILE REASONABLY BELIEVED THAT THE RESPONSIBLE ADULT DID NOT HAVE ANY INTERESTS ADVERSE TO THOSE OF THE JUVENILE AND THAT THE RESPONSIBLE ADULT WAS ABLE TO PROVIDE PROTECTIVE COUNSELING TO THE JUVENILE CONCERNING HIS OR HER RIGHTS DURING THE INTERROGATION.

(b) FOR PURPOSES OF THIS SUBSECTION (7):

(I) "PROTECTIVE COUNSELING" MEANS AN ONGOING OPPORTUNITY TO OFFER GUIDANCE AND ADVICE CONCERNING THE JUVENILE'S RIGHT TO REMAIN SILENT AND TO OBTAIN RETAINED OR APPOINTED COUNSEL ASSOCIATED WITH THE CUSTODIAL INTERROGATION; AND

(II) "RESPONSIBLE ADULT" MEANS A PARENT, GUARDIAN, LEGAL OR PHYSICAL

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

CUSTODIAN, OR OTHER RESPONSIBLE ADULT WHO WAS A CUSTODIAN OF THE JUVENILE OR WHO ASSUMED THE ROLE OF A PARENT AT THE TIME OF THE INTERROGATION.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to the admissibility of statements obtained on or after the applicable effective date of this act.

Approved: May 28, 2019