

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

INTRODUCED

LLS NO. 23-0509.01 Jane Ritter x4342

HOUSE BILL 23-1042

HOUSE SPONSORSHIP

Bacon,

SENATE SPONSORSHIP

Gonzales,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING NARROWING ADMISSIBILITY STANDARDS FOR JUVENILE**
102 **STATEMENTS TO PROTECT THE VOLUNTARINESS OF SUCH**
103 **STATEMENTS.**

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 makes any statement or admission obtained during a juvenile custodial interrogation in which a law enforcement official knowingly uses deception prior to or during the custodial interrogation presumptively inadmissible against the juvenile in an evidentiary hearing unless the prosecution proves by a preponderance of the evidence and

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.*

based on the totality of the circumstances that the statement or admission was made voluntarily. In assessing the totality of the circumstances, the court shall consider all evidence presented concerning the juvenile's vulnerability to any deception used during the custodial interrogation.

The bill requires law enforcement officials to electronically record all juvenile custodial interrogations.

The bill directs the P.O.S.T. board to develop a live, virtual, interactive training program for peace officers on the enforcement of laws related to custodial interrogation of juveniles to ensure uniform interpretation of the law. The state shall cover any local law enforcement agency costs associated with the training.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2.5-203, **add** (8)
3 as follows:

4 **19-2.5-203. Statements - definitions.** (8) (a) A STATEMENT OR
5 ADMISSION BY A JUVENILE MADE AS A RESULT OF THE JUVENILE'S
6 CUSTODIAL INTERROGATION BY A LAW ENFORCEMENT OFFICIAL OR AGENT
7 IS PRESUMPTIVELY INADMISSIBLE AGAINST THE JUVENILE AT ANY
8 SUBSEQUENT JUDICIAL PROCEEDING IF THE LAW ENFORCEMENT OFFICIAL
9 OR AGENT KNOWINGLY USED DECEPTION PRIOR TO OR DURING THE
10 CUSTODIAL INTERROGATION, UNLESS THE PROSECUTION ESTABLISHES AT
11 AN EVIDENTIARY HEARING PRIOR TO TRIAL, BY A PREPONDERANCE OF THE
12 EVIDENCE AND BASED ON THE TOTALITY OF THE CIRCUMSTANCES, THAT
13 THE STATEMENT OR ADMISSION WAS MADE VOLUNTARILY DESPITE THE
14 DECEPTION. IN ASSESSING THE TOTALITY OF THE CIRCUMSTANCES, THE
15 COURT SHALL CONSIDER ALL EVIDENCE PRESENTED CONCERNING THE
16 JUVENILE'S VULNERABILITY TO ANY DECEPTION USED DURING THE
17 CUSTODIAL INTERROGATION.

18 (b) A LAW ENFORCEMENT OFFICIAL OR AGENT SHALL
19 ELECTRONICALLY RECORD ALL JUVENILE CUSTODIAL INTERROGATIONS

1 PURSUANT TO SECTION 16-3-601 WITHOUT REGARD TO THE NATURE OF THE
2 OFFENSE THAT THE LAW ENFORCEMENT OFFICIAL OR AGENT REASONABLY
3 BELIEVES IS BEING INVESTIGATED.

4 (c) AS USED IN THIS SUBSECTION (8):

5 (I) "AGENT" MEANS A PERSON WHO SPEAKS DURING A CUSTODIAL
6 INTERROGATION OF THE JUVENILE.

7 (II) "DECEPTION" MEANS TO KNOWINGLY COMMUNICATE ONE OR
8 MORE FALSE FACTS OR BELIEFS TO A JUVENILE WHO IS THE SUBJECT OF A
9 CUSTODIAL INTERROGATION. A FALSE FACT OR BELIEF MAY INCLUDE BUT
10 IS NOT LIMITED TO STATEMENTS REGARDING EVIDENCE OR UNAUTHORIZED
11 STATEMENTS REGARDING POTENTIAL LENIENCY BY A LAW ENFORCEMENT
12 OFFICIAL, PROSECUTOR, JUDGE, JUROR, OR ANY OTHER JUVENILE OFFICER.

13 **SECTION 2.** In Colorado Revised Statutes, 24-31-303, **add**
14 (1)(u) as follows:

15 **24-31-303. Duties - powers of the P.O.S.T. board - definition.**

16 (1) The P.O.S.T. board has the following duties:

17 (u) TO DEVELOP A LIVE VIRTUAL TRAINING PROGRAM FOR PEACE
18 OFFICERS ON THE IMPLEMENTATION OF SECTION 19-2.5-203 (8) TO ENSURE
19 UNIFORM ENFORCEMENT OF THE LAW. THE STATE SHALL PROVIDE THIS
20 TRAINING ON AT LEAST TEN DIFFERENT DATES PRIOR TO FEBRUARY 28,
21 2024. THE STATE SHALL COVER ANY REASONABLE DIRECT COSTS TO LOCAL
22 LAW ENFORCEMENT AGENCIES ASSOCIATED WITH THE TRAINING.
23 NOTWITHSTANDING SECTION 24-31-310(3), THE GENERAL ASSEMBLY MAY
24 APPROPRIATE MONEY FROM THE GENERAL FUND TO CARRY OUT THE
25 PURPOSES OF THIS SUBSECTION (1)(u). THE TRAINING MUST INCLUDE, AT
26 A MINIMUM, EDUCATION FOR PEACE OFFICERS ON:

27 (I) UNDERSTANDING JUVENILE DEVELOPMENT AND CULTURE AND

1 THEIR IMPACT ON INTERVIEWS OF JUVENILES AND CUSTODIAL
2 INTERROGATIONS OF JUVENILES;

3 (II) INTERPRETING JUVENILE BEHAVIOR DURING AN INTERVIEW OR
4 CUSTODIAL INTERROGATION;

5 (III) TECHNIQUES FOR BUILDING AND ESTABLISHING RAPPORT WITH
6 JUVENILES;

7 (IV) CONSTRUCTING AGE-APPROPRIATE STATEMENTS AND
8 QUESTIONS FOR INTERVIEWS OF JUVENILES AND CUSTODIAL
9 INTERROGATIONS OF JUVENILES; AND

10 (V) CAUTIONS AND CONSIDERATIONS FOR INTERVIEWING AND
11 INTERROGATING JUVENILES IN CUSTODY, INCLUDING HOW TO REDUCE THE
12 LIKELIHOOD OF FALSE OR COERCED CONFESSIONS.

13 **SECTION 3. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article V
17 of the state constitution against this act or an item, section, or part of this
18 act within such period, then the act, item, section, or part will not take
19 effect unless approved by the people at the general election to be held in
20 November 2024 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.