

## CHAPTER 192

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**CRIMINAL LAW AND PROCEDURE**

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**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, Martinez, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Sirota, 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.

**AN ACT****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 COMPELLING 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

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*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.*

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.

Approved: May 15, 2023