

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

DRAFT
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BILL 3

LLS NO. 25-0303.01 Jane Ritter x4342

INTERIM COMMITTEE BILL

Legislative Oversight Committee Concerning Colorado Jail Standards

BILL TOPIC: Communication Rights for Persons in Custody

A BILL FOR AN ACT

101 **CONCERNING COMMUNICATION RIGHTS FOR PERSONS IN CUSTODY.**

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/>.)

Legislative Oversight Committee Concerning Colorado Jail Standards. Current law allows a person who is committed, imprisoned, or arrested (person in custody) the right to communicate with an attorney or family member by making a reasonable number of telephone calls or through any other reasonable manner. The bill adds the right for a person in custody to receive a reasonable number of telephone calls or other reasonable communications and to communicate through interactive audiovisual conferencing, if available.

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

Current law allows a person in custody the right to consult with an attorney. The bill clarifies that the person in custody has the right to make and receive private and unrecorded legal telephone calls without cost, and, alternatively, to communicate through private unrecorded interactive audiovisual conferencing.

Current law requires all peace officers or individuals who have a person in custody to allow the person in custody to see and consult with an attorney, alone and in private, at the location the person in custody is being held. The bill expands this requirement to allow the attorney for the person in custody to call and consult with the person in custody by telephone through a private and unrecorded legal telephone call without cost or by making and receiving private and unrecorded interactive audiovisual conferencing calls without cost.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-3-402, **amend** (1),
3 (2), and (3) as follows:

4 **16-3-402. Right to communicate with attorney and family.**

5 (1) ~~Persons who are arrested shall have~~ A PERSON WHO IS ARRESTED HAS
6 the right to communicate with an attorney of ~~their~~ THE PERSON'S choice
7 and a member of ~~their~~ THE PERSON'S family by making a reasonable
8 number of telephone calls or by communicating in any other reasonable
9 manner. ~~Such~~ THE communication ~~shall~~ MUST be permitted at the earliest
10 possible time after arrival at the police station, sheriff's office, jail, or
11 other like confinement facility to which ~~such~~ THE person is first taken
12 after arrest.

13 (2) If the accused PERSON is transferred to a new place of custody,
14 ~~his~~ THE ACCUSED PERSON'S right to communicate with an attorney and a
15 member of ~~his~~ THE ACCUSED PERSON'S family is renewed.

16 (3) (a) Consistent with ~~the provisions of section 21-1-103, C.R.S.,~~
17 if ~~any~~ A person in custody indicates in any manner ~~his~~ THE desire to speak
18 with an attorney, or the court determines that an inquiry into the matter of

1 indigency should occur, ~~the~~ A public defender ~~shall be~~ IS permitted to
2 communicate with that person IN PERSON OR THROUGH TELEPHONE CALLS
3 AND, IF AVAILABLE, INTERACTIVE AUDIOVISUAL CONFERENCING OR ANY
4 OTHER REASONABLE AND AVAILABLE METHOD to determine whether ~~that~~
5 THE person IN CUSTODY has counsel, ~~and, if~~ WHETHER the person IN
6 CUSTODY desires ~~that~~ REPRESENTATION FROM the public defender, OR
7 PUBLIC DEFENDER'S AGENT, ~~represent him,~~ AND to make an initial
8 determination as to whether the person IN CUSTODY is indigent. If the
9 public defender determines that the person IN CUSTODY is indigent, ~~such~~
10 THE person IN CUSTODY shall apply for representation by the public
11 defender in accordance with section 21-1-103. ~~C.R.S.~~

12 (b) The public defender, upon ~~his~~ request and with due regard for
13 reasonable law enforcement administrative procedures, ~~shall be~~ IS
14 permitted to determine whether or not ~~any~~ A person in custody has been
15 taken without unnecessary delay before the nearest available county or
16 district judge.

17 **SECTION 2.** In Colorado Revised Statutes, **amend** 16-3-403 as
18 follows:

19 **16-3-403. Right to consult with attorney.** ~~Any~~ A person
20 committed, imprisoned, or arrested for any cause, whether or not ~~such~~
21 THE person is charged with an offense, ~~shall be~~ IS allowed to consult IN
22 PERSON, ALONE, AND PRIVATELY AT THE PLACE OF CUSTODY, AND BY
23 MAKING AND RECEIVING PRIVATE UNRECORDED LEGAL TELEPHONE CALLS
24 WITHOUT COST, OR, ALTERNATIVELY, BY MAKING AND RECEIVING PRIVATE
25 UNRECORDED INTERACTIVE AUDIOVISUAL CONFERENCING CALLS WITHOUT
26 COST, with an attorney-at-law of this state whom ~~such~~ THE person desires
27 to see or consult alone and in private at the place of custody, BY MAKING

1 AND RECEIVING PRIVATE AND UNRECORDED LEGAL TELEPHONE CALLS
2 WITHOUT COST, OR, ALTERNATIVELY, BY COMMUNICATING THROUGH
3 PRIVATE AND UNRECORDED INTERACTIVE AUDIOVISUAL CONFERENCING,
4 as many times and for such period each time as is reasonable. Except
5 where extradition proceedings have been completed or are not required
6 by law, when ~~any such~~ A person IN CUSTODY is about to be moved beyond
7 the limits of this state, the person ~~to be moved shall be~~ IN CUSTODY IS
8 entitled to a reasonable delay for the purpose of obtaining counsel and ~~of~~
9 ~~availing himself of~~ BENEFITING FROM the laws of this state for the security
10 of personal liberty.

11 **SECTION 3.** In Colorado Revised Statutes, 16-3-404, **amend** (2);
12 and **add** (1.5) as follows:

13 **16-3-404. Duty of officers to admit attorney and allow**
14 **attorney communications.** (1.5) ALL PEACE OFFICERS OR PERSONS
15 HAVING IN CUSTODY A PERSON WHO IS COMMITTED, IMPRISONED, OR
16 ARRESTED FOR ANY ALLEGED CAUSE SHALL ALLOW ANY
17 ATTORNEY-AT-LAW IN THIS STATE WHO IS THE ATTORNEY FOR THE PERSON
18 IN CUSTODY TO CALL BY TELEPHONE AND SPEAK WITH OR CONSULT WITH
19 THE PERSON WHO IS IN CUSTODY, THROUGH A PRIVATE AND UNRECORDED
20 CALL, WHILE THE PERSON WHO IS IN CUSTODY IS AT THE JAIL OR OTHER
21 PLACE OF CUSTODY, OR, ALTERNATIVELY, TO COMMUNICATE THROUGH
22 INTERACTIVE AUDIOVISUAL CONFERENCING IF THE PERSON IN CUSTODY
23 EXPRESSLY CONSENTS TO RECEIVE THE CALL OR CONSULT WITH THE
24 ATTORNEY.

25 (2) ~~Any~~ A peace officer or person ~~violating~~ WHO VIOLATES the
26 ~~duty~~ DUTIES imposed by ~~this section~~ SUBSECTION (1) OR (1.5) OF THIS
27 SECTION or section 16-3-403 shall forfeit and pay not less than one

1 hundred dollars nor more than one thousand dollars to the person
2 COMMITTED, imprisoned, OR ARRESTED or to ~~his~~ THE PERSON'S attorney
3 for the benefit of the person COMMITTED, imprisoned, OR ARRESTED, to
4 be recovered in any court of competent jurisdiction.

5 **SECTION 4. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly; except
8 that, if a referendum petition is filed pursuant to section 1 (3) of article V
9 of the state constitution against this act or an item, section, or part of this
10 act within such period, then the act, item, section, or part will not take
11 effect unless approved by the people at the general election to be held in
12 November 2026 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.