

CHAPTER 221

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 23-1042

BY REPRESENTATIVE(S) Bacon and Sharbini, Amabile, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Herod, Jodeh, Joseph, Kipp, Lindsay, Mabrey, Marshall, Michaelson Jenet, Ortiz, Parenti, Ricks, Sirota, Velasco, Weissman, Story;
 also SENATOR(S) Gonzales, Bridges, Buckner, Coleman, Cutter, Exum, Fields, Hansen, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Moreno, Priola, Rodriguez, Winter F.

AN ACT

CONCERNING NARROWING ADMISSIBILITY STANDARDS FOR JUVENILE STATEMENTS TO PROTECT THE VOLUNTARINESS OF SUCH STATEMENTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

19-2.5-203. Statements - definitions. (8) (a) A STATEMENT OR ADMISSION BY A JUVENILE MADE AS A RESULT OF THE JUVENILE'S CUSTODIAL INTERROGATION BY A LAW ENFORCEMENT OFFICIAL OR AGENT IS PRESUMPTIVELY INADMISSIBLE AGAINST THE JUVENILE AT TRIAL IF THE LAW ENFORCEMENT OFFICIAL OR AGENT KNOWINGLY COMMUNICATED ANY UNTRUTHFUL INFORMATION OR BELIEF TO OBTAIN THE STATEMENT OR ADMISSION, UNLESS THE PROSECUTION ESTABLISHES AT AN EVIDENTIARY HEARING PRIOR TO TRIAL, BY A PREPONDERANCE OF THE EVIDENCE AND BASED ON THE TOTALITY OF THE CIRCUMSTANCES, THAT THE STATEMENT OR ADMISSION WAS MADE VOLUNTARILY DESPITE THE UNTRUTHFUL INFORMATION OR BELIEF USED TO OBTAIN THE STATEMENT OR ADMISSION OR THAT THE LAW ENFORCEMENT OFFICIAL IN GOOD FAITH REASONABLY BELIEVED THE INFORMATION OR BELIEF WAS TRUE AT THE TIME IT WAS USED. ~~IN ASSESSING THE TOTALITY OF THE CIRCUMSTANCES, THE COURT SHALL CONSIDER ALL EVIDENCE PRESENTED CONCERNING THE JUVENILE'S VULNERABILITY TO ANY UNTRUTHFUL INFORMATION OR BELIEF USED DURING THE CUSTODIAL INTERROGATION.~~

(b) A LAW ENFORCEMENT OFFICIAL OR AGENT SHALL ELECTRONICALLY RECORD ALL JUVENILE CUSTODIAL INTERROGATIONS PURSUANT TO SECTION 16-3-601

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.

WITHOUT REGARD TO THE NATURE OF THE OFFENSE THAT THE LAW ENFORCEMENT OFFICIAL OR AGENT REASONABLY BELIEVES IS BEING INVESTIGATED.

(c) LAW ENFORCEMENT AGENCIES ARE ENCOURAGED TO ADOPT AND FOLLOW NATIONAL MODEL POLICIES THAT ARE INCLUDED IN P.O.S.T. RULES CONCERNING LAW-ENFORCEMENT-CONDUCTED INTERROGATIONS INVOLVING A JUVENILE.

(d) AS USED IN THIS SUBSECTION (8):

(I) "AGENT" MEANS A PERSON WHO ACTS WITH THE MOTIVE OF ASSISTING LAW ENFORCEMENT EFFORTS TO OBTAIN A CONFESSION, AS SHOWN BY THE TOTALITY OF THE CIRCUMSTANCES.

(II) "UNTRUTHFUL INFORMATION OR BELIEF" MEANS ANY UNTRUTHFUL INFORMATION OR BELIEF KNOWINGLY USED OR COMMUNICATED TO A JUVENILE WHO IS THE SUBJECT OF A CUSTODIAL INTERROGATION. "UNTRUTHFUL INFORMATION OR BELIEF" MAY INCLUDE BUT IS NOT LIMITED TO STATEMENTS REGARDING EVIDENCE OR UNAUTHORIZED STATEMENTS REGARDING POTENTIAL LENIENCY BY A LAW ENFORCEMENT OFFICIAL, PROSECUTOR, JUDGE, JUROR, OR ANY OTHER JUVENILE OFFICER.

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

24-31-303. Duties - powers of the P.O.S.T. board - definition. (1) The P.O.S.T. board has the following duties:

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

(I) UNDERSTANDING JUVENILE DEVELOPMENT AND CULTURE AND THEIR IMPACT ON INTERVIEWS OF JUVENILES AND CUSTODIAL INTERROGATIONS OF JUVENILES;

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

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

(IV) ALTERNATIVE COMMUNICATION METHODS FOR JUVENILES WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS REQUIRED BY THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AS AMENDED;

(V) CONSTRUCTING AGE-APPROPRIATE STATEMENTS AND QUESTIONS FOR INTERVIEWS OF JUVENILES AND CUSTODIAL INTERROGATIONS OF JUVENILES; AND

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

SECTION 3. Appropriation. For the 2023-24 state fiscal year, \$37,500 is appropriated to the department of law. This appropriation is from the P.O.S.T. board cash fund created in section 24-31-303 (2)(b), C.R.S. To implement this act, the department may use this appropriation for peace officers standards and training board support.

SECTION 4. Act subject to petition - effective date. 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; 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 18, 2023