

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

March 10, 2020

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB20-088 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** 13-25-139 as  
4 follows:

5 **13-25-139. Criminal action - interference with witness -**  
6 **forfeiture by wrongdoing.** WHEN A PARTY TO A CRIMINAL CASE  
7 WRONGFULLY PROCURES THE UNAVAILABILITY OF A WITNESS, A  
8 STATEMENT OTHERWISE NOT ADMISSIBLE PURSUANT TO THE COLORADO  
9 RULES OF EVIDENCE THAT IS OFFERED AGAINST THE PARTY THAT WAS  
10 INVOLVED IN OR RESPONSIBLE FOR THE WRONGDOING THAT WAS INTENDED  
11 TO, AND DID, DEPRIVE THE CRIMINAL JUSTICE SYSTEM OF EVIDENCE IS  
12 ADMISSIBLE AS AN EXCEPTION TO THE HEARSAY RULE; EXCEPT THAT SUCH  
13 A STATEMENT IS NOT ADMISSIBLE UNLESS THE PROPONENT HAS GIVEN TO  
14 THE ADVERSE PARTY ADVANCE WRITTEN NOTICE OF AN INTENTION TO  
15 INTRODUCE THE STATEMENT SUFFICIENT TO PROVIDE THE ADVERSE PARTY  
16 A FAIR OPPORTUNITY TO CONTEST THE ADMISSIBILITY OF THE STATEMENT.  
17 IN DETERMINING THE ADMISSIBILITY OF THE EVIDENCE, THE COURT SHALL  
18 DETERMINE, PRIOR TO THE TRIAL, WHETHER THE FORFEITURE BY  
19 WRONGDOING OCCURRED BY A PREPONDERANCE OF THE EVIDENCE.

20 **SECTION 2. Act subject to petition - effective date -**  
21 **applicability.** (1) This act takes effect September 1, 2020; except that,  
22 if a referendum petition is filed pursuant to section 1 (3) of article V of  
23 the state constitution against this act or an item, section, or part of this act

1 within the ninety-day period after final adjournment of the general  
2 assembly, then the act, item, section, or part will not take effect unless  
3 approved by the people at the general election to be held in November  
4 2020 and, in such case, will take effect on the date of the official  
5 declaration of the vote thereon by the governor.

6 (2) This act applies to evidence or statements sought to be  
7 admitted on or after the applicable effective date of this act.".

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