

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chair of Committee

\_\_\_\_\_  
April 5, 2023  
Date

Committee on Judiciary.

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

HB23-1155 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 2, strike lines 4 and 5 and substitute:

2 "16-3-406. Custodial interrogation - admissibility - legislative  
3 **declaration - definition.** (1) THE GENERAL ASSEMBLY FINDS AND  
4 DECLARES THAT:

5 (a) THE UNITED STATES CONSTITUTION AND THE STATE  
6 CONSTITUTION DECLARE A PRIVILEGE AGAINST SELF-INCRIMINATION AND  
7 A RIGHT TO COUNSEL TO BE FUNDAMENTAL RIGHTS;

8 (b) WITHOUT PROCEDURAL SAFEGUARDS, CUSTODIAL  
9 INTERROGATION BY LAW ENFORCEMENT CAN LEAD TO INHERENTLY  
10 COMPELLING PRESSURES THAT WORK TO UNDERMINE THE WILL OF THE  
11 INDIVIDUAL SUBJECTED TO THE INTERROGATION;

12 (c) PRIOR TO CUSTODIAL INTERROGATION, AN INDIVIDUAL MUST BE  
13 CLEARLY AND UNEQUIVOCALLY APPRISED OF THE INDIVIDUAL'S RIGHTS;

14 (d) THE EXERCISE OF THESE RIGHTS PRIOR TO OR DURING  
15 CUSTODIAL INTERROGATION MUST BE FULLY HONORED;

16 (e) IN *MIRANDA V. ARIZONA*, 384 U.S. 436 (1966), THE UNITED  
17 STATES SUPREME COURT RECOGNIZED PROCEDURAL SAFEGUARDS AND  
18 THAT AN ADVISEMENT MUST BY GIVEN PRIOR TO ANY CUSTODIAL  
19 INTERROGATION IN ORDER FOR STATEMENTS FROM THAT CUSTODIAL  
20 INTERROGATION TO BE ADMITTED AT TRIAL BY THE PROSECUTION;

21 (f) THE COURT FURTHER STATED IN *MIRANDA* THAT STATES ARE  
22 FREE TO DEVELOP THEIR OWN SAFEGUARDS CONSISTENT WITH *MIRANDA*;

23 (g) IN THE DECADES THAT HAVE FOLLOWED *MIRANDA V. ARIZONA*,  
24 EXPERIENCE HAS DEMONSTRATED THAT PROCEDURAL SAFEGUARDS TO  
25 INFORM INDIVIDUALS OF THEIR RIGHTS AND TO HONOR EXERCISE OF THEIR  
26 RIGHTS ARE BENEFICIAL AND JUST;

27 (h) COLORADO SHOULD JOIN OTHER STATES THAT HAVE CODIFIED

1 SUCH PROCEDURAL SAFEGUARDS; AND  
2 (i) IT IS THE INTENT OF GENERAL ASSEMBLY THAT COLORADO  
3 SHOULD THEREFORE PROVIDE INDEPENDENT STATUTORY PROTECTION  
4 CONSISTENT WITH *MIRANDA* IN NO GREATER OR LESSER DEGREE.  
5 (2) AS USED IN THIS SECTION, "CUSTODIAL INTERROGATION" HAS  
6 THE".

7 Renumber succeeding subsections accordingly.

8 Page 2, line 9, strike "PROCEEDING" and substitute "TRIAL".

9 Page 2, strike lines 10 through 21 and substitute "DEFENDANT, PRIOR TO  
10 MAKING THE STATEMENT, WAS ADVISED IN A MANNER THAT REASONABLY  
11 CONVEYED THE FOLLOWING WARNINGS:

12 (a) YOU HAVE THE RIGHT TO REMAIN SILENT;

13 (b) ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN  
14 A COURT OF LAW;

15 (c) YOU HAVE THE RIGHT TO CONSULT A LAWYER PRIOR TO  
16 QUESTIONING AND HAVE THE LAWYER PRESENT DURING QUESTIONING;

17 (d) IF YOU CANNOT AFFORD TO HIRE A LAWYER, A LAWYER WILL  
18 BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU  
19 REQUEST ONE; AND

20 (e) YOU CAN STOP THE INTERVIEW AND REQUEST TO REMAIN  
21 SILENT OR REQUEST A LAWYER AT ANY TIME BEFORE OR DURING  
22 QUESTIONING."

23 Page 2, line 22, strike "THE" and substitute "WHEN PROPERLY RAISED BY  
24 THE DEFENDANT PURSUANT TO RULES PROMULGATED BY THE COLORADO  
25 SUPREME COURT, THE".

26 Page 2, line 25, strike "(2)" and substitute "(3)".

27 Page 3, after line 1 insert:

28 "(6) NOTHING IN THIS SECTION PRECLUDES THE ADMISSION OF A  
29 VOLUNTARY STATEMENT WHEN THE PROSECUTION PROVES BY A  
30 PREPONDERANCE OF THE EVIDENCE THAT AN EXCEPTION RECOGNIZED  
31 THROUGH THE PROGENY OF *MIRANDA V. ARIZONA*, 384 U.S. 436 (1966)  
32 APPLIES, INCLUDING THE PUBLIC SAFETY EXCEPTION OR BOOKING  
33 EXCEPTION."

34 Strike "ACCUSED" and substitute "DEFENDANT" on: **Page 2**, lines 8, 9, 23,

1 and 27.

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