

**Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0650.01 Jerry Barry x4341

**SENATE BILL 20-088**

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**SENATE SPONSORSHIP**

**Fields,** Cooke, Gardner, Ginal, Marble, Priola, Tate

**HOUSE SPONSORSHIP**

**Roberts and Soper,**

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**Senate Committees**  
Judiciary

**House Committees**  
Judiciary

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**A BILL FOR AN ACT**

101      **CONCERNING EVIDENTIARY RULES WHEN A DEFENDANT INTERFERES**  
102      **WITH A WITNESS.**

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**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>.)*

Under an opinion of the Colorado supreme court, if a party to a criminal case wrongfully procures the unavailability of a witness, evidence that the witness may have been able to offer is still inadmissible if it constitutes hearsay evidence. The bill provides that such a party forfeits the right to object to the admissibility of evidence of the witness based on hearsay and that such evidence is admissible.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
February 13, 2020

SENATE  
2nd Reading Unamended  
February 12, 2020

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

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

4 **13-25-139. Criminal action - interference with witness -**  
5 **forfeiture by wrongdoing.** WHEN A PARTY TO A CRIMINAL CASE  
6 WRONGFULLY PROCURES THE UNAVAILABILITY OF A WITNESS, A  
7 STATEMENT OTHERWISE NOT ADMISSIBLE PURSUANT TO THE COLORADO  
8 RULES OF EVIDENCE THAT IS OFFERED AGAINST THE PARTY THAT WAS  
9 INVOLVED IN OR RESPONSIBLE FOR THE WRONGDOING THAT WAS INTENDED  
10 TO, AND DID, DEPRIVE THE CRIMINAL JUSTICE SYSTEM OF EVIDENCE IS  
11 ADMISSIBLE AS AN EXCEPTION TO THE HEARSAY RULE; EXCEPT THAT SUCH  
12 A STATEMENT IS NOT ADMISSIBLE UNLESS THE PROPONENT HAS GIVEN TO  
13 THE ADVERSE PARTY ADVANCE WRITTEN NOTICE OF AN INTENTION TO  
14 INTRODUCE THE STATEMENT SUFFICIENT TO PROVIDE THE ADVERSE PARTY  
15 A FAIR OPPORTUNITY TO CONTEST THE ADMISSIBILITY OF THE STATEMENT.  
16 IN DETERMINING THE ADMISSIBILITY OF THE EVIDENCE, THE COURT SHALL  
17 DETERMINE, PRIOR TO THE TRIAL, WHETHER THE FORFEITURE BY  
18 WRONGDOING OCCURRED BY A PREPONDERANCE OF THE EVIDENCE.

19 **SECTION 2. Act subject to petition - effective date -**  
20 **applicability.** (1) This act takes effect September 1, 2020; except that,  
21 if a referendum petition is filed pursuant to section 1 (3) of article V of  
22 the state constitution against this act or an item, section, or part of this act  
23 within the ninety-day period after final adjournment of the general  
24 assembly, then the act, item, section, or part will not take effect unless  
25 approved by the people at the general election to be held in November  
26 2020 and, in such case, will take effect on the date of the official

1 declaration of the vote thereon by the governor.

2 (2) This act applies to evidence or statements sought to be

3 admitted on or after the applicable effective date of this act.