

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 22-0408.01 Jane Ritter x4342

SENATE BILL 22-023

SENATE SPONSORSHIP

Gonzales, Buckner, Coleman, Lee, Moreno, Rodriguez, Story

HOUSE SPONSORSHIP

Bacon and Gonzales-Gutierrez,

Senate Committees

Judiciary

House Committees

Judiciary

Appropriations

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING DECEPTIVE TACTICS DURING CUSTODIAL**
102 **INTERROGATION OF A JUVENILE, AND, IN CONNECTION**
103 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

The bill prohibits a law enforcement officer or an agent who assists, cooperates with, or otherwise facilitates a custodial interrogation with a juvenile (law enforcement official) from using deception and false facts or beliefs (deception) to obtain a statement or admission from the juvenile. Any statement or admission obtained during the course of a

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 17, 2022

SENATE
Amended 2nd Reading
February 15, 2022

juvenile custodial interrogation in which a law enforcement official knowingly uses deception is presumptively inadmissible against the juvenile in an evidentiary hearing unless the prosecution proves by clear and convincing evidence that the statement or admission was made voluntarily.

The bill requires law enforcement officials to electronically record all juvenile custodial interrogations.

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

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

4 **19-2.5-203. Statements - definitions.** (8) (a) A STATEMENT OR
5 ADMISSION OF A JUVENILE MADE AS A RESULT OF THE JUVENILE'S
6 CUSTODIAL INTERROGATION BY A LAW ENFORCEMENT OFFICIAL OR AGENT
7 IS PRESUMPTIVELY INADMISSIBLE AGAINST THE JUVENILE AT ANY
8 SUBSEQUENT JUDICIAL PROCEEDING IF THE LAW ENFORCEMENT OFFICIAL
9 OR AGENT KNOWINGLY USES DECEPTION PRIOR TO OR DURING THE
10 CUSTODIAL INTERROGATION, UNLESS THE PROSECUTION ESTABLISHES AT
11 AN EVIDENTIARY HEARING PRIOR TO TRIAL, BY A PREPONDERANCE OF THE
12 EVIDENCE AND BASED ON THE TOTALITY OF THE CIRCUMSTANCES, THAT
13 THE STATEMENT OR ADMISSION WAS MADE VOLUNTARILY DESPITE THE
14 DECEPTION. IN ASSESSING THE TOTALITY OF THE CIRCUMSTANCES, THE
15 COURT SHALL CONSIDER ALL EVIDENCE PRESENTED CONCERNING THE
16 VULNERABILITY OF THE JUVENILE TO ANY DECEPTION USED DURING THE
17 CUSTODIAL INTERROGATION.

18 (b) A LAW ENFORCEMENT OFFICIAL OR AGENT SHALL
19 ELECTRONICALLY RECORD ALL JUVENILE CUSTODIAL INTERROGATIONS
20 PURSUANT TO SECTION 16-3-601 WITHOUT REGARD TO THE NATURE OF THE
21 OFFENSE THAT THE LAW ENFORCEMENT OFFICIAL OR AGENT REASONABLY
22 BELIEVES IS BEING INVESTIGATED.

1 (c) AS USED IN THIS SUBSECTION (8):

2 (I) "AGENT" MEANS A PERSON WHO SPEAKS DURING THE
3 CUSTODIAL INTERROGATION OF THE JUVENILE.

4 (II) "DECEPTION" MEANS TO KNOWINGLY COMMUNICATE ONE OR
5 MORE FALSE FACTS OR BELIEFS TO A JUVENILE WHO IS THE SUBJECT OF A
6 CUSTODIAL INTERROGATION. A FALSE FACT OR BELIEF MAY INCLUDE BUT
7 IS NOT LIMITED TO STATEMENTS REGARDING EVIDENCE OR UNAUTHORIZED
8 STATEMENTS REGARDING POTENTIAL LENIENCY BY A LAW ENFORCEMENT
9 OFFICIAL, PROSECUTOR, JUDGE, JUROR, OR ANY OTHER JUVENILE OFFICER.

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

12 24-31-303. Duties - powers of the P.O.S.T. board - definition.

13 (1) The P.O.S.T. board has the following duties:

14 (u) TO DEVELOP A LIVE VIRTUAL TRAINING PROGRAM FOR PEACE
15 OFFICERS ON THE IMPLEMENTATION OF SECTION 19-2.5-203 (8) TO ENSURE
16 A UNIFORM ENFORCEMENT OF THE LAW. THE STATE SHALL PROVIDE THIS
17 TRAINING ON AT LEAST TEN DIFFERENT DATES PRIOR TO FEBRUARY 28,
18 2023. THE STATE SHALL COVER ANY REASONABLE DIRECT LOCAL LAW
19 ENFORCEMENT AGENCY COSTS ASSOCIATED WITH THE TRAINING.
20 NOTWITHSTANDING SECTION 24-31-310 (3), THE GENERAL ASSEMBLY MAY
21 APPROPRIATE MONEY FROM THE GENERAL FUND TO CARRY OUT THE
22 PURPOSES OF THIS SUBSECTION (1)(u). THE TRAINING MUST INCLUDE, AT
23 A MINIMUM, EDUCATION FOR PEACE OFFICERS ON:

24 (I) UNDERSTANDING JUVENILE DEVELOPMENT AND CULTURE AND
25 ITS IMPACT ON CUSTODIAL INTERROGATIONS OF JUVENILES;

26 (II) INTERPRETING JUVENILE BEHAVIOR DURING A CUSTODIAL
27 INTERROGATION;

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

3 (IV) CONSTRUCTING AGE-APPROPRIATE STATEMENTS AND
4 QUESTIONS FOR CUSTODIAL INTERVIEWS; AND

5 (V) CAUTIONS AND CONSIDERATIONS FOR INTERROGATING
6 JUVENILES IN CUSTODY, INCLUDING HOW TO REDUCE THE LIKELIHOOD OF
7 FALSE OR COERCED CONFESSIONS.

8 **SECTION 3. Appropriation.** For the 2022-23 state fiscal year,
9 \$55,000 is appropriated to the department of law. This appropriation is
10 from the P.O.S.T. board cash fund created in section 24-31-303 (2)(b),
11 C.R.S. To implement this act, the department may use this appropriation
12 for peace officers standards and training board support.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect February 28, 2023; except that, if a referendum petition is
15 filed pursuant to section 1 (3) of article V of the state constitution against
16 this act or an item, section, or part of this act within the ninety-day period
17 after final adjournment of the general assembly, then the act, item,
18 section, or part will not take effect unless approved by the people at the
19 general election to be held in November 2022 and, in such case, will take
20 effect February 28, 2023.