

**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,

HOUSE SPONSORSHIP

Bacon and Gonzales-Gutierrez,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING DECEPTIVE TACTICS DURING CUSTODIAL**
102 **INTERROGATION OF A JUVENILE.**

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 juvenile custodial interrogation in which a law enforcement official

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.

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 AND ANY FRUITS MADE AS A RESULT OF THE
6 JUVENILE'S CUSTODIAL INTERROGATION BY A LAW ENFORCEMENT OFFICIAL
7 OR AGENT ARE PRESUMPTIVELY INADMISSIBLE AGAINST THE JUVENILE AT
8 ANY SUBSEQUENT JUDICIAL PROCEEDING IF THE LAW ENFORCEMENT
9 OFFICIAL OR AGENT KNOWINGLY USES DECEPTION PRIOR TO OR DURING
10 THE CUSTODIAL INTERROGATION, UNLESS THE PROSECUTION ESTABLISHES
11 AT AN EVIDENTIARY HEARING PRIOR TO TRIAL, BY CLEAR AND CONVINCING
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. Act subject to petition - effective date.** This act
11 takes effect February 28, 2023; except that, if a referendum petition is
12 filed pursuant to section 1 (3) of article V of the state constitution against
13 this act or an item, section, or part of this act within the ninety-day period
14 after final adjournment of the general assembly, then the act, item,
15 section, or part will not take effect unless approved by the people at the
16 general election to be held in November 2022 and, in such case, will take
17 effect February 28, 2023.