

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-0509.01 Jane Ritter x4342

HOUSE BILL 23-1042

HOUSE SPONSORSHIP

Bacon and Sharbini,

SENATE SPONSORSHIP

Gonzales,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING NARROWING ADMISSIBILITY STANDARDS FOR JUVENILE**
102 **STATEMENTS TO PROTECT THE VOLUNTARINESS OF SUCH**
103 **STATEMENTS, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **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 makes any statement or admission obtained during a juvenile custodial interrogation in which a law enforcement official knowingly uses deception prior to or during the custodial interrogation

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

HOUSE
Amended 2nd Reading
March 8, 2023

presumptively inadmissible against the juvenile in an evidentiary hearing unless the prosecution proves by a preponderance of the evidence and based on the totality of the circumstances that the statement or admission was made voluntarily. In assessing the totality of the circumstances, the court shall consider all evidence presented concerning the juvenile's vulnerability to any deception used during the custodial interrogation.

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

The bill directs the P.O.S.T. board to develop a live, virtual, interactive training program for peace officers on the enforcement of laws related to custodial interrogation of juveniles to ensure uniform interpretation of the law. The state shall cover any local law enforcement agency costs associated with the training.

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 BY 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 COMMUNICATED ANY UNTRUTHFUL**
10 **INFORMATION OR BELIEF TO OBTAIN THE STATEMENT OR ADMISSION,**
11 UNLESS THE PROSECUTION ESTABLISHES AT AN EVIDENTIARY HEARING
12 PRIOR TO TRIAL, BY A PREPONDERANCE OF THE EVIDENCE AND BASED ON
13 THE TOTALITY OF THE CIRCUMSTANCES, THAT THE STATEMENT OR
14 ADMISSION WAS MADE VOLUNTARILY DESPITE THE **UNTRUTHFUL**
15 **INFORMATION OR BELIEF USED TO OBTAIN THE STATEMENT OR ADMISSION**
16 **OR THAT THE LAW ENFORCEMENT OFFICIAL IN GOOD FAITH REASONABLY**
17 **BELIEVED THE INFORMATION OR BELIEF WAS TRUE AT THE TIME IT WAS**
18 **USED.** IN ASSESSING THE TOTALITY OF THE CIRCUMSTANCES, THE COURT

1 SHALL CONSIDER ALL EVIDENCE PRESENTED CONCERNING THE JUVENILE'S
2 VULNERABILITY TO ANY UNTRUTHFUL INFORMATION OR BELIEF USED
3 DURING THE CUSTODIAL INTERROGATION.

4 (b) A LAW ENFORCEMENT OFFICIAL OR AGENT SHALL
5 ELECTRONICALLY RECORD ALL JUVENILE CUSTODIAL INTERROGATIONS
6 PURSUANT TO SECTION 16-3-601 WITHOUT REGARD TO THE NATURE OF THE
7 OFFENSE THAT THE LAW ENFORCEMENT OFFICIAL OR AGENT REASONABLY
8 BELIEVES IS BEING INVESTIGATED.

9 (c) LAW ENFORCEMENT AGENCIES ARE ENCOURAGED TO ADOPT
10 AND FOLLOW NATIONAL MODEL POLICIES THAT ARE INCLUDED IN P.O.S.T.
11 RULES CONCERNING LAW-ENFORCEMENT-CONDUCTED INTERROGATIONS
12 INVOLVING A JUVENILE.

13 (d) AS USED IN THIS SUBSECTION (8):

14 (I) "AGENT" MEANS A PERSON WHO ACTS WITH THE MOTIVE OF
15 ASSISTING LAW ENFORCEMENT EFFORTS TO OBTAIN A CONFESSION, AS
16 SHOWN BY THE TOTALITY OF THE CIRCUMSTANCES.

17 (II) "UNTRUTHFUL INFORMATION OR BELIEF" MEANS ANY
18 UNTRUTHFUL INFORMATION OR BELIEF KNOWINGLY USED OR
19 COMMUNICATED TO A JUVENILE WHO IS THE SUBJECT OF A CUSTODIAL
20 INTERROGATION. "UNTRUTHFUL INFORMATION OR BELIEF" MAY INCLUDE
21 BUT IS NOT LIMITED TO STATEMENTS REGARDING EVIDENCE OR
22 UNAUTHORIZED STATEMENTS REGARDING POTENTIAL LENIENCY BY A LAW
23 ENFORCEMENT OFFICIAL, PROSECUTOR, JUDGE, JUROR, OR ANY OTHER
24 JUVENILE OFFICER.

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

27 **24-31-303. Duties - powers of the P.O.S.T. board - definition.**

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

2 (u) TO DEVELOP A LIVE VIRTUAL TRAINING PROGRAM FOR PEACE
3 OFFICERS ON THE IMPLEMENTATION OF SECTION 19-2.5-203 (8) TO ENSURE
4 UNIFORM ENFORCEMENT OF THE LAW. THE STATE SHALL PROVIDE THIS
5 TRAINING ON AT LEAST TEN DIFFERENT DATES PRIOR TO FEBRUARY 28,
6 2024. THE STATE SHALL COVER ANY REASONABLE DIRECT COSTS TO LOCAL
7 LAW ENFORCEMENT AGENCIES ASSOCIATED WITH THE TRAINING.
8 NOTWITHSTANDING SECTION 24-31-310 (3), THE GENERAL ASSEMBLY MAY
9 APPROPRIATE MONEY FROM THE GENERAL FUND TO CARRY OUT THE
10 PURPOSES OF THIS SUBSECTION (1)(u). THE TRAINING MUST INCLUDE, AT
11 A MINIMUM, EDUCATION FOR PEACE OFFICERS ON:

12 (I) UNDERSTANDING JUVENILE DEVELOPMENT AND CULTURE AND
13 THEIR IMPACT ON INTERVIEWS OF JUVENILES AND CUSTODIAL
14 INTERROGATIONS OF JUVENILES;

15 (II) INTERPRETING JUVENILE BEHAVIOR DURING AN INTERVIEW OR
16 CUSTODIAL INTERROGATION;

17 (III) TECHNIQUES FOR BUILDING AND ESTABLISHING RAPPORT WITH
18 JUVENILES;

19 (IV) ALTERNATIVE COMMUNICATION METHODS FOR JUVENILES
20 WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS REQUIRED BY
21 THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C.
22 SEC. 12101 ET SEQ., AS AMENDED;

23 (V) CONSTRUCTING AGE-APPROPRIATE STATEMENTS AND
24 QUESTIONS FOR INTERVIEWS OF JUVENILES AND CUSTODIAL
25 INTERROGATIONS OF JUVENILES; AND

26 (VI) CAUTIONS AND CONSIDERATIONS FOR INTERVIEWING AND
27 INTERROGATING JUVENILES IN CUSTODY, INCLUDING HOW TO REDUCE THE

1 LIKELIHOOD OF FALSE OR COERCED CONFESSIONS.

2 **SECTION 3. Appropriation.** For the 2023-24 state fiscal year,
3 \$37,500 is appropriated to the department of law. This appropriation is
4 from the P.O.S.T. board cash fund created in section 24-31-303 (2)(b),
5 C.R.S. To implement this act, the department may use this appropriation
6 for peace officers standards and training board support.

7 **SECTION 4. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly; except
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V
11 of the state constitution against this act or an item, section, or part of this
12 act within such period, then the act, item, section, or part will not take
13 effect unless approved by the people at the general election to be held in
14 November 2024 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.