

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

PREAMENDED

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

LLS NO. 23-0509.01 Jane Ritter x4342

HOUSE BILL 23-1042

HOUSE SPONSORSHIP

Bacon and Sharbini, Amabile, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Herod, Jodeh, Joseph, Kipp, Lindsay, Mabrey, Marshall, Michaelson Jenet, Ortiz, Parenti, Ricks, Sirota, Velasco, Weissman

SENATE SPONSORSHIP

Gonzales,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

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
3rd Reading Unamended
March 11, 2023

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

1 VULNERABILITY TO ANY UNTRUTHFUL INFORMATION OR BELIEF USED
2 DURING THE CUSTODIAL INTERROGATION.

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

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

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

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

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

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

26 **24-31-303. Duties - powers of the P.O.S.T. board - definition.**

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

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

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

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

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

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

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

25 (VI) CAUTIONS AND CONSIDERATIONS FOR INTERVIEWING AND
26 INTERROGATING JUVENILES IN CUSTODY, INCLUDING HOW TO REDUCE THE
27 LIKELIHOOD OF FALSE OR COERCED CONFESSIONS.

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

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