

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

ENGROSSED

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

LLS NO. 19-1029.01 Jerry Barry x4341

HOUSE BILL 19-1315

HOUSE SPONSORSHIP

Gonzales-Gutierrez and Michaelson Jenet, Benavidez, Herod, Soper

SENATE SPONSORSHIP

Gonzales,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADMISSIBILITY OF STATEMENTS BY 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>.)

Under current law, statements by a juvenile concerning delinquent acts committed by the juvenile are admissible against the juvenile so long as the juvenile is accompanied by one or more specified adults during the advisement of constitutional rights and during the interrogation. A court decision found this to be legally sufficient even if the adult was shown to have an interest adverse to the juvenile. Under the bill, if an issue concerning the adult's adverse interest is raised, the prosecution must prove by a preponderance of the evidence that the person conducting the

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.

HOUSE
Amended 2nd Reading
April 18, 2019

interrogation reasonably believed that the adult did not have an interest adverse to the juvenile and helped safeguard the juvenile's constitutional rights during the interrogation.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2-511, **add** (7) as
3 follows:

4 **19-2-511. Statements - definition.** (7) (a) NOTWITHSTANDING
5 ANY PROVISIONS OF THIS SECTION TO THE CONTRARY, IF THE JUVENILE
6 ASSERTS THAT STATEMENTS MADE DURING THE CUSTODIAL
7 INTERROGATION ARE INADMISSIBLE BECAUSE A RESPONSIBLE ADULT HAD
8 AN INTEREST ADVERSE TO THE JUVENILE, THE PROSECUTION, AS PART OF
9 ITS BURDEN OF PROOF AT A HEARING ON A MOTION TO SUPPRESS THE
10 STATEMENTS, MUST SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT
11 THE PERSON INTERROGATING THE JUVENILE REASONABLY BELIEVED THAT
12 THE RESPONSIBLE ADULT DID NOT HAVE ANY INTERESTS ADVERSE TO
13 THOSE OF THE JUVENILE AND THAT THE RESPONSIBLE ADULT WAS ABLE TO
14 PROVIDE PROTECTIVE COUNSELING TO THE JUVENILE CONCERNING HIS OR
15 HER RIGHTS DURING THE INTERROGATION.

16 (b) FOR PURPOSES OF THIS SUBSECTION (7):

17 (I) "PROTECTIVE COUNSELING" MEANS AN ONGOING OPPORTUNITY
18 TO OFFER GUIDANCE AND ADVICE CONCERNING THE JUVENILE'S RIGHT TO
19 REMAIN SILENT AND TO OBTAIN RETAINED OR APPOINTED COUNSEL
20 ASSOCIATED WITH THE CUSTODIAL INTERROGATION; AND

21 (II) "RESPONSIBLE ADULT" MEANS A PARENT, GUARDIAN, LEGAL
22 OR PHYSICAL CUSTODIAN, OR OTHER RESPONSIBLE ADULT WHO WAS A
23 CUSTODIAN OF THE JUVENILE OR WHO ASSUMED THE ROLE OF A PARENT AT
24 THE TIME OF THE INTERROGATION.

1 **SECTION 2. Applicability.** This act applies to challenges to the
2 admissibility of statements raised on or after the effective date of this act.

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety. April 18, 2019