

Assembly Bill No. 193—Assemblymen González, D’Silva, Thomas, Anderson, Torres; Gorelow, La Rue Hatch, Marzola, C.H. Miller, Nguyen, Orentlicher, Peters and Taylor

Joint Sponsors: Senators Ohrenschall;
Krasner and Nguyen

CHAPTER.....

AN ACT relating to criminal procedure; prohibiting a peace officer or other person authorized to conduct a custodial interrogation of a child from making certain statements during a custodial interrogation of a child; providing that a statement by a child obtained in violation of such a prohibition is presumed involuntary and inadmissible in any criminal or juvenile proceeding; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prescribes certain requirements relating to custodial interrogations. (NRS 62C.013, 171.1239) This bill prohibits a peace officer or other person authorized to conduct a custodial interrogation of a child from: (1) knowingly making certain materially false statements about evidence to a child who is the subject of a custodial interrogation; or (2) making certain express or implied promises of leniency or advantage to a child who is the subject of a custodial interrogation. This bill additionally creates a presumption that any statement by a child obtained in violation of this bill is involuntary and inadmissible in any criminal or juvenile proceeding. To overcome this presumption, the State must prove, by a preponderance of the evidence, that the statement was voluntary, reliable and not induced by a violation of this bill. Finally, this bill creates an exception to the prohibition created by this bill for circumstances in which: (1) the peace officer or other person who conducted the custodial interrogation reasonably believed that the information sought was necessary to protect life or property from an imminent threat; and (2) the questions asked by such a person were limited to those reasonably necessary to obtain information related to the imminent threat.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 62C of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, a peace officer or other person authorized to conduct a custodial interrogation of a child taken into custody shall not during a custodial interrogation of a child:



(a) *Knowingly make a materially false statement about evidence that is reasonably likely to elicit an incriminating response from the child; or*

(b) *Make any express or implied promise to the child of leniency or advantage for the child that the peace officer or other person conducting the investigation lacks the authority to make, including, without limitation, any promise about the filing of charges or prosecution of the child.*

2. *A statement by a child obtained in violation of this section is presumed to be involuntary and inadmissible in any criminal or juvenile proceeding. The State may overcome the presumption set forth in this subsection by proving by a preponderance of the evidence that the statement was voluntary, reliable and not induced by an act in violation of this section. In making a determination pursuant to this subsection of whether the presumption has been overcome, the finder of fact shall consider the totality of the circumstances of the interrogation.*

3. *Subsection 1 does not apply to a custodial interrogation of a child if:*

(a) *The peace officer or other person who conducted the custodial interrogation of the child reasonably believed the information sought was necessary to protect life or property from an imminent threat; and*

(b) *The questions asked by the peace officer or other person were limited to those reasonably necessary to obtain information related to the imminent threat.*

4. *As used in this section:*

(a) *“Child” means a person who is less than 18 years of age. The term includes:*

(1) *A person who is certified for criminal proceedings as an adult pursuant to NRS 62B.390 or 62B.400.*

(2) *A person who is excluded from the jurisdiction of the juvenile court pursuant to NRS 62B.330.*

(b) *“Custodial interrogation” means any interrogation of a person who is required to be advised of his or her rights pursuant to Miranda v. Arizona, 384 U.S. 436 (1966).*

(c) *“Peace officer” has the meaning ascribed to it in NRS 169.125.*

Sec. 2. This act becomes effective on July 1, 2024.

