

1 S.279

2 Introduced by Senator Ram Hinsdale

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedure; innocence protection; interrogations

6 Statement of purpose of bill as introduced: This bill proposes to prohibit the
7 admissibility of a statement made by a person during a custodial interrogation
8 if the statement was made in response to law enforcement's knowing use of
9 deception during the interrogation.

10 An act relating to inadmissibility of statements gained by the use of
11 deception by law enforcement during a custodial interrogation

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 13 V.S.A. § 5586 is added to read:

14 § 5586. USE OF DECEPTION; INADMISSIBILITY OF STATEMENT

15 (a) As used in this section:

16 (1) "Custodial interrogation" has the same meaning as in section 5585 of
17 this title.

18 (2) "Deception" means the knowing communication of false facts
19 about evidence or unauthorized statements regarding leniency
20 by a law enforcement officer to a subject of custodial interrogation.

1 (3) “Place of detention” has the same meaning as in section 5585 of this
2 title.

3 (4) “Statement” has the same meaning as in section 5585 of this title.

4 (b) A statement made by a person during a custodial interrogation that
5 occurs in a place of detention shall be presumed inadmissible if, during the
6 custodial interrogation, a law enforcement officer knowingly engaged in
7 deception.

8 (c) The presumption of inadmissibility may be overcome by a
9 preponderance of the evidence that the confession was voluntarily given, based
10 on the totality of the circumstances. The burden shall be on the prosecution to
11 prove that the confession was voluntary. An objection to the failure of the
12 prosecution to call all material witnesses on the issue of whether the confession
13 was voluntary must be made in the trial court.

14 Sec. 2. EFFECTIVE DATE

15 This act shall take effect on July 1, 2022.