



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2122

Introduced 2/26/2021, by Sen. Robert Peters

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-401.6 new  
725 ILCS 5/103-2.2 new

Amends the Juvenile Court Act of 1987 and the Code of Criminal Procedure of 1963. Provides that an oral, written, or sign language statement of a minor, who at the time of the commission of the offense was under 18 years of age, made as a result of a custodial interrogation conducted at a police station or other place of detention on or after the effective date of the amendatory Act shall be presumed to be inadmissible as evidence in a criminal proceeding or a juvenile court proceeding for an act that if committed by an adult would be a misdemeanor offense under the Sex Offenses Article of the Criminal Code of 2012 or a felony offense under the Criminal Code of 2012 if, during the custodial interrogation, a law enforcement officer, juvenile officer, or other public official or employee, knowingly engages in deception.

LRB102 17139 RLC 22791 b

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by  
5 adding Section 5-401.6 as follows:

6 (705 ILCS 405/5-401.6 new)

7 Sec. 5-401.6. Prohibition of deceptive tactics.

8 (a) In this Section:

9 "Custodial interrogation" means any interrogation (i)  
10 during which a reasonable person in the subject's position  
11 would consider himself or herself to be in custody and (ii)  
12 during which a question is asked that is reasonably likely to  
13 elicit an incriminating response.

14 "Deception" means the knowing communication of false facts  
15 about evidence or false statements regarding leniency by a law  
16 enforcement officer, juvenile officer, or other public  
17 official or employee to a subject of custodial interrogation.

18 "Place of detention" means a building or a police station  
19 that is a place of operation for a municipal police department  
20 or county sheriff department or other law enforcement agency  
21 at which persons are or may be held in detention in connection  
22 with criminal charges against those persons or allegations  
23 that those persons are delinquent minors.

1       (b) An oral, written, or sign language statement of a  
2 minor, who at the time of the commission of the offense was  
3 under 18 years of age, made as a result of a custodial  
4 interrogation conducted at a police station or other place of  
5 detention on or after the effective date of this amendatory  
6 Act of the 102nd General Assembly shall be presumed to be  
7 inadmissible as evidence in a criminal proceeding or a  
8 juvenile court proceeding for an act that if committed by an  
9 adult would be a misdemeanor offense under Article 11 of the  
10 Criminal Code of 2012 or a felony offense under the Criminal  
11 Code of 2012 if, during the custodial interrogation, a law  
12 enforcement officer, juvenile officer, or other public  
13 official or employee, knowingly engages in deception.

14       (c) The presumption of inadmissibility of a statement by a  
15 suspect at a custodial interrogation at a police station or  
16 other place of detention, when such statements are procured  
17 through the knowing use of deception, may be overcome by clear  
18 and convincing evidence that the statement was voluntarily  
19 given, based on the totality of the circumstances.

20       (d) The burden of going forward with the evidence and the  
21 burden of proving that a confession was voluntary shall be on  
22 the State. Objection to the failure of the State to call all  
23 material witnesses on the issue of whether the confession was  
24 voluntary must be made in the trial court.

25       Section 10. The Code of Criminal Procedure of 1963 is

1 amended by adding Section 103-2.2 as follows:

2 (725 ILCS 5/103-2.2 new)

3 Sec. 103-2.2. Prohibition of deceptive tactics.

4 (a) In this Section:

5 "Custodial interrogation" means any interrogation during  
6 which (i) a reasonable person in the subject's position would  
7 consider himself or herself to be in custody and (ii) during  
8 which a question is asked that is reasonably likely to elicit  
9 an incriminating response.

10 "Deception" means the knowing communication of false facts  
11 about evidence or false statements regarding leniency by a law  
12 enforcement officer, juvenile officer, or other public  
13 official or employee to a subject of custodial interrogation.

14 "Place of detention" means a building or a police station  
15 that is a place of operation for a municipal police department  
16 or county sheriff department or other law enforcement agency,  
17 not a courthouse, that is owned or operated by a law  
18 enforcement agency at which persons are or may be held in  
19 detention in connection with criminal charges against those  
20 persons.

21 (b) An oral, written, or sign language statement of a  
22 minor, who at the time of the commission of the offense was  
23 under 18 years of age, made as a result of a custodial  
24 interrogation conducted at a police station or other place of  
25 detention on or after the effective date of this amendatory

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2 inadmissible as evidence in a criminal proceeding or a  
3 juvenile court proceeding for an act that if committed by an  
4 adult would be a misdemeanor offense under Article 11 of the  
5 Criminal Code of 2012 or a felony offense under the Criminal  
6 Code of 2012 if, during the custodial interrogation, a law  
7 enforcement officer, juvenile officer, or other public  
8 official or employee, knowingly engages in deception.

9 (c) The presumption of inadmissibility of a statement by a  
10 suspect at a custodial interrogation at a police station or  
11 other place of detention, when such statements are procured  
12 through the knowing use of deception, may be overcome by clear  
13 and convincing evidence that the statement was voluntarily  
14 given, based on the totality of the circumstances.

15 (d) The burden of going forward with the evidence and the  
16 burden of proving that a confession was voluntary shall be on  
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18 material witnesses on the issue of whether the confession was  
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