



Rep. Justin Slaughter

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10300HB5346ham001

LRB103 38554 RLC 71771 a

1 AMENDMENT TO HOUSE BILL 5346

2 AMENDMENT NO. _____. Amend House Bill 5346 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 adding Section 5-401.7 as follows:

6 (705 ILCS 405/5-401.7 new)

7 Sec. 5-401.7. Inadmissibility of unreliable statements by
8 defendants.

9 (a) In this Section:

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

15 "Place of detention" means a building or a police station
16 that is a place of operation for a municipal police department

1 or county sheriff department or other law enforcement agency
2 at which persons are or may be held in detention in connection
3 with criminal charges against those persons or allegations
4 that those persons are delinquent minors.

5 (b) Unreliable statements to law enforcement made during a
6 custodial interrogation conducted at a police station or other
7 place of detention by a defendant are inadmissible at trial in
8 any criminal court proceeding or juvenile court proceeding for
9 the prosecution of a homicide or Class X felony.

10 (c) In any proceeding under this Section, the prosecution
11 shall timely disclose at least 30 days prior to any relevant
12 evidentiary hearing or trial its intent to introduce a
13 statement made during a custodial interrogation conducted at a
14 police station or other place of detention. At that time, the
15 prosecution must disclose any electronic recordings of the
16 statement and any documents relating to the circumstances
17 under which the statement was obtained and its reliability.

18 (d) Before trial, a defendant may move to exclude a
19 statement that is unreliable. If, in that motion, the
20 defendant alleges that the statement is unreliable, then a
21 hearing shall be held. The reliability of a statement is to be
22 considered separately from the voluntariness of a statement,
23 although the 2 issues may be considered during the same
24 proceeding in court. Nothing in this Section shall be
25 construed to relieve the State of its burden to demonstrate
26 voluntariness of a custodial statement by a preponderance of

1 the evidence.

2 (e) At a hearing, the defendant has the burden of
3 producing some evidence that the statement is unreliable. If
4 the defendant meets that burden, the statement is inadmissible
5 unless the prosecution proves by a preponderance of the
6 evidence that the statement is reliable. The defendant may
7 choose to testify at such a hearing without waiving any trial
8 rights against self-incrimination, but the defendant is not
9 required to testify.

10 (f) When deciding a statement's reliability, a court
11 should consider:

12 (1) whether the details in the statement fit with the
13 evidence known before the interrogation, especially
14 details that describe unusual or not easily guessed facts
15 of the crime that had not been made public;

16 (2) whether the statement provides any new details or
17 any new evidence not known before the interrogation that
18 can be independently corroborated after the interrogation;

19 (3) whether facts of the crime were disclosed to the
20 defendant rather than originated with the defendant;

21 (4) whether the defendant recanted the defendant's
22 statement at any time and the circumstances of that
23 recantation;

24 (5) whether the statement was electronically recorded;
25 and

26 (6) any other information relevant to the reliability

1 of the statement.

2 (g) The question of the statement's admissibility is
3 solely for the trial court.

4 Section 10. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 103-2.3 as follows:

6 (725 ILCS 5/103-2.3 new)

7 Sec. 103-2.3. Inadmissibility of unreliable statements by
8 defendants.

9 (a) In this Section:

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

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

21 (b) Unreliable statements to law enforcement made during a
22 custodial interrogation conducted at a police station or other
23 place of detention by a defendant are inadmissible at trial in
24 any criminal court proceeding or juvenile court proceeding for

1 the prosecution of a homicide or Class X felony.

2 (c) In any proceeding under this Section, the prosecution
3 shall timely disclose at least 30 days prior to any relevant
4 evidentiary hearing or trial its intent to introduce a
5 statement made during a custodial interrogation conducted at a
6 police station or other place of detention by a defendant. At
7 that time, the prosecution must disclose any electronic
8 recordings of the statement and any documents relating to the
9 circumstances under which the statement was obtained and its
10 reliability.

11 (d) Before trial, a defendant may move to exclude a
12 statement that is unreliable. If, in that motion, the
13 defendant alleges that the statement is unreliable, then a
14 hearing shall be held. The reliability of a statement is to be
15 considered separately from the voluntariness of a statement,
16 although the 2 issues may be considered during the same
17 proceeding in court. Nothing in this Section shall be
18 construed to relieve the State of its burden to demonstrate
19 voluntariness of a custodial statement by a preponderance of
20 the evidence.

21 (e) At a hearing, the defendant has the burden of
22 producing some evidence that the statement is unreliable. If
23 the defendant meets that burden, the statement is inadmissible
24 unless the prosecution proves by a preponderance of the
25 evidence that the statement is reliable. The defendant may
26 choose to testify at such a hearing without waiving any trial

1 rights against self-incrimination, but the defendant is not
2 required to testify.

3 (f) When deciding a statement's reliability, a court
4 should consider:

5 (1) whether the details in the statement fit with the
6 evidence known before the interrogation, especially
7 details that describe unusual or not easily guessed facts
8 of the crime that had not been made public;

9 (2) whether the statement provides any new details or
10 any new evidence not known before the interrogation that
11 can be independently corroborated after the interrogation;

12 (3) whether facts of the crime were disclosed to the
13 defendant rather than originated with the defendant;

14 (4) whether the defendant recanted the defendant's
15 statement at any time and the circumstances of that
16 recantation;

17 (5) whether the statement was electronically recorded;
18 and

19 (6) any other information relevant to the reliability
20 of the statement.

21 (g) The question of the statement's admissibility is
22 solely for the trial court."