

AN ACT concerning criminal law.

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

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

(705 ILCS 405/5-401.6)

Sec. 5-401.6. Prohibition of deceptive tactics.

(a) In this Section:

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

"Deception" means the knowing communication of false facts about evidence or unauthorized statements regarding leniency by a law enforcement officer or juvenile officer to a subject of custodial interrogation.

"Person with a severe or profound intellectual disability" means a person (i) whose intelligence quotient does not exceed 40 or (ii) whose intelligence quotient does not exceed 55 and who suffers from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired.

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

"Protected person" means: a minor who, at the time of the commission of the offense, was under 18 years of age; or a person with a severe or profound intellectual disability.

(b) An oral, written, or sign language confession of a protected person ~~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 this amendatory Act of the 102nd General Assembly shall be presumed to be inadmissible as evidence against the protected person ~~minor~~ making the confession in a criminal proceeding or a juvenile court proceeding for an act that if committed by an adult would be a misdemeanor offense under Article 11 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 or juvenile officer knowingly engages in deception.

(c) The presumption of inadmissibility of a confession of a protected person ~~minor, who at the time of the commission of the offense was under 18 years of age,~~ at a custodial

interrogation at a police station or other place of detention, when such confession is procured through the knowing use of deception, may be overcome by a preponderance of the evidence that the confession was voluntarily given, based on the totality of the circumstances.

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

(Source: P.A. 102-101, eff. 1-1-22.)

Section 10. The Code of Criminal Procedure of 1963 is amended by changing Section 103-2.2 as follows:

(725 ILCS 5/103-2.2)

Sec. 103-2.2. Prohibition of deceptive tactics.

(a) In this Section:

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

"Deception" means the knowing communication of false facts about evidence or unauthorized statements regarding leniency by a law enforcement officer or juvenile officer to a subject

of custodial interrogation.

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

"Protected person" means: a minor who, at the time of the commission of the offense, was under 18 years of age; or a person with a severe or profound intellectual disability.

(b) An oral, written, or sign language confession of a protected person ~~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 this amendatory Act of the 102nd General Assembly shall be presumed to be inadmissible as evidence against the protected person ~~minor~~ making the confession in a criminal proceeding or a juvenile court proceeding for an act that if committed by an adult would be a misdemeanor offense under Article 11 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 or juvenile officer knowingly engages in deception.

(c) The presumption of inadmissibility of a confession of

a protected person ~~minor, who at the time of the commission of the offense was under 18 years of age,~~ at a custodial interrogation at a police station or other place of detention, when such confession is procured through the knowing use of deception, may be overcome by a preponderance of the evidence that the confession was voluntarily given, based on the totality of the circumstances.

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

(Source: P.A. 102-101, eff. 1-1-22.)