
Public Safety Committee

HB 1690

Brief Description: Concerning the use of deception by law enforcement officers during custodial interrogations.

Sponsors: Representatives Peterson, Macri, Ryu, Simmons, Gregerson, Dolan, Valdez, Fitzgibbon, Berg, Bateman, Kloba and Frame.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Creates a rebuttable presumption of inadmissibility of a statement made during a custodial interrogation when the interrogating officer intentionally engaged in deception in obtaining the statement.
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Hearing Date: 1/14/22

Staff: Omeara Harrington (786-7136).

Background:

The federal and state Constitutions provide a series of protections for individuals when they interact with law enforcement officers. Those protections include the right to remain silent and the right to counsel during a custodial interrogation. A custodial interrogation generally means questioning, actions, or words by a law enforcement officer designed to elicit an incriminating response from a person after the person has been taken into custody or has otherwise been deprived the freedom of action in any significant way.

Prior to engaging in a custodial interrogation of a person, an officer must provide a *Miranda* warning to advise the person of the person's constitutional rights and ability to invoke those rights at any time during the interrogation. A person may waive those rights, provided the waiver is voluntary, knowing, and intelligent. Incriminating statements made during a custodial

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interrogation are inadmissible as evidence if the interrogating officer fails to provide an effective *Miranda* warning or fails to obtain a valid waiver of rights prior to engaging in the interrogation.

When the prosecution seeks to introduce a defendant's statement as evidence, it has the burden to prove by a preponderance of the evidence that the defendant made the statement voluntarily. Courts evaluate voluntariness in light of the totality of the circumstances. Law enforcement's use of deception during an interrogation, alone, does not render a person's statement involuntary. In determining whether or not a statement is voluntary, courts have looked to whether the behavior of law enforcement was such as to overbear the person's will to resist and bring about a confession that was not freely self-determined.

Summary of Bill:

A statement made during a custodial interrogation is presumed to be inadmissible if the court determines that the interrogating officer intentionally engaged in deception in obtaining the statement by knowingly communicating false facts about evidence or unauthorized statements regarding leniency. The presumption of inadmissibility applies in cases involving the investigation of a misdemeanor or felony, or, in the case of a juvenile, an allegation that the subject of the interrogation committed an act that would constitute a misdemeanor or felony if committed by an adult. The prosecution may overcome the presumption of inadmissibility if it proves by clear and convincing evidence that the person's statement was voluntary and not made in response to the officer's use of deception.

Appropriation: None.

Fiscal Note: Requested on January 5, 2022.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.