
**Community Safety, Justice, & Reentry
Committee**

HB 1062

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

Sponsors: Representatives Peterson, Simmons, Bateman, Reed, Doglio, Orwall, Macri, Gregerson, Thai, Stonier, Santos and Farivar.

Brief Summary of Bill

- Establishes a presumption of inadmissibility for a statement made during a custodial interrogation where the interrogating officer intentionally engages in deception in obtaining the statement.

Hearing Date: 1/8/24

Staff: Corey Patton (786-7388).

Background:

The state and federal constitutions provide certain rights and protections during interactions with law enforcement officers, including the right to remain silent and the right to counsel during a custodial interrogation. A custodial interrogation generally means questioning, actions, or words by an officer designed to elicit an incriminating response from a person who has been taken into custody or otherwise deprived the freedom of action in any significant way. Prior to engaging in a custodial interrogation, the officer must provide a *Miranda* warning to advise the person of certain constitutional rights and the ability to invoke those rights at any time during the interrogation. The person may waive those rights if the waiver is made voluntarily, knowingly, and intelligently. If the officer fails to provide an effective *Miranda* warning or obtain a valid waiver, incriminating statements made by the person during the interrogation are inadmissible as

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evidence.

When seeking to introduce a defendant's statement as evidence, the prosecution must prove by a preponderance of the evidence that the defendant made the statement voluntarily. Courts evaluate whether a statement was voluntary in light of the totality of the circumstances, which may include evaluating whether the behavior of law enforcement was such as to overbear the defendant's will to resist and bring about a confession that was not freely self-determined. An officer's use of deception during an interrogation, alone, does not render a defendant's statement involuntary.

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 to statements made in relation to 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 3, 2024.

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