



Sen. Robert Peters

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10200SB2122sam002

LRB102 17139 KMF 25658 a

1 AMENDMENT TO SENATE BILL 2122

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2122 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 5-401.6 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 unauthorized statements regarding leniency  
16 by a law enforcement officer or juvenile officer to a subject

1 of custodial interrogation.

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

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

21 (c) The presumption of inadmissibility of a confession by  
22 a suspect at a custodial interrogation at a police station or  
23 other place of detention, when such confession is procured  
24 through the knowing use of deception, may be overcome by a  
25 preponderance of the evidence that the confession was  
26 voluntarily given, based on the totality of the circumstances.

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

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

8       (725 ILCS 5/103-2.2 new)

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

10       (a) In this Section:

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

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

20       "Place of detention" means a building or a police station  
21 that is a place of operation for a municipal police department  
22 or county sheriff department or other law enforcement agency,  
23 not a courthouse, that is owned or operated by a law  
24 enforcement agency at which persons are or may be held in

1 detention in connection with criminal charges against those  
2 persons.

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

16 (c) The presumption of inadmissibility of a confession by  
17 a suspect at a custodial interrogation at a police station or  
18 other place of detention, when such confession is procured  
19 through the knowing use of deception, may be overcome by a  
20 preponderance of the evidence that the confession was  
21 voluntarily given, based on the totality of the circumstances.

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