

# HB3253



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3253

Introduced 2/17/2023, by Rep. Curtis J. Tarver, II

### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-401.6  
725 ILCS 5/103-2.2

Amends the Juvenile Court Act of 1987 and the Code of Criminal Procedure of 1963. Expands the definition of "protected person" in provisions prohibiting certain deceptive tactics during custodial interrogation to include persons with severe or profound intellectual or developmental disabilities (rather than only minors who, at the time of the commission of the offense, were under 18 years of age).

LRB103 26863 RLC 53227 b

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (705 ILCS 405/5-401.6)

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  
17 of custodial interrogation.

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

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

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

19      (c) The presumption of inadmissibility of a confession of  
20      a protected person minor, who at the time of the commission of  
21      ~~the offense was under 18 years of age,~~ at a custodial  
22      interrogation at a police station or other place of detention,  
23      when such confession is procured through the knowing use of  
24      deception, may be overcome by a preponderance of the evidence  
25      that the confession was voluntarily given, based on the  
26      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 (Source: P.A. 102-101, eff. 1-1-22.)

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

9 (725 ILCS 5/103-2.2)

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

11 (a) In this Section:

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

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

21 "Place of detention" means a building or a police station  
22 that is a place of operation for a municipal police department  
23 or county sheriff department or other law enforcement agency,  
24 not a courthouse, that is owned or operated by a law

1 enforcement agency at which persons are or may be held in  
2 detention in connection with criminal charges against those  
3 persons.

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

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

22 (c) The presumption of inadmissibility of a confession of  
23 a protected person ~~minor, who at the time of the commission of~~  
24 ~~the offense was under 18 years of age,~~ at a custodial  
25 interrogation at a police station or other place of detention,  
26 when such confession is procured through the knowing use of

1 deception, may be overcome by a preponderance of the evidence  
2 that the confession was voluntarily given, based on the  
3 totality of the circumstances.

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

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