



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5346

Introduced 2/9/2024, by Rep. Kevin John Olickal

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-401.7 new  
725 ILCS 5/103-2.3 new

Amends the Juvenile Court Act of 1987 and the Code of Criminal Procedure of 1963. Provides that unreliable statements to law enforcement made during a custodial interrogation conducted at a police station or other place of detention by a defendant are inadmissible at trial in any criminal court proceeding or juvenile court proceeding. Provides that in any proceeding under this provision, the prosecution shall timely disclose at least 30 days prior to any relevant evidentiary hearing or trial its intent to introduce a statement made during a custodial interrogation conducted at a police station or other place of detention by a defendant. Provides that at that time, the prosecution must disclose any electronic recordings of the statement and any documents relating to the circumstances under which the statement was obtained. Provides that when deciding a statement's reliability, a court should consider: (1) whether the details in the statement fit with the evidence known before the interrogation, especially details that describe unusual or not easily guessed facts of the crime that had not been made public; (2) whether the statement provides any new details or any new evidence not known before the interrogation that can be independently corroborated after the interrogation; (3) whether facts of the crime were disclosed to the defendant rather than elicited from the defendant; and (4) whether a court has found evidence of coercion in making a prior determination about whether the statement is voluntary. Provides that the question of the statement's admissibility is solely for the trial court.

LRB103 38554 RLC 69557 b

1 AN ACT concerning courts.

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 adding Section 5-401.7 as follows:

6 (705 ILCS 405/5-401.7 new)

7 Sec. 5-401.7. Inadmissibility of unreliable statements by  
8 defendants.

9 (a) In this Section:

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

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

21 (b) Unreliable statements to law enforcement made during a  
22 custodial interrogation conducted at a police station or other  
23 place of detention by a defendant are inadmissible at trial in

1 any criminal court proceeding or juvenile court proceeding.

2 (c) In any proceeding under this Section, the prosecution  
3 shall timely disclose at least 30 days prior to any relevant  
4 evidentiary hearing or trial its intent to introduce a  
5 statement made during a custodial interrogation conducted at a  
6 police station or other place of detention. At that time, the  
7 prosecution must disclose any electronic recordings of the  
8 statement and any documents relating to the circumstances  
9 under which the statement was obtained.

10 (d) Before trial, a defendant may move to exclude a  
11 statement that is unreliable. If, in that motion, the  
12 defendant presents a prima facie case that the statement is  
13 unreliable, then a hearing shall be held. This hearing shall  
14 be separate from any hearing on the voluntariness of the  
15 statement.

16 (e) At a hearing, the defendant has the burden of  
17 producing some evidence that the statement is unreliable. If  
18 the defendant meets that burden, the statement is inadmissible  
19 unless the prosecution proves by a preponderance of the  
20 evidence that the statement is reliable. The defendant may  
21 choose to testify at such a hearing without waiving any trial  
22 rights against self-incrimination, but the defendant is not  
23 required to testify.

24 (f) When deciding a statement's reliability, a court  
25 should consider:

26 (1) whether the details in the statement fit with the

1 evidence known before the interrogation, especially  
2 details that describe unusual or not easily guessed facts  
3 of the crime that had not been made public;

4 (2) whether the statement provides any new details or  
5 any new evidence not known before the interrogation that  
6 can be independently corroborated after the interrogation;

7 (3) whether facts of the crime were disclosed to the  
8 defendant rather than elicited from the defendant; and

9 (4) whether a court has found evidence of coercion in  
10 making a prior determination about whether the statement  
11 is voluntary.

12 (g) The question of the statement's admissibility is  
13 solely for the trial court.

14 Section 10. The Code of Criminal Procedure of 1963 is  
15 amended by adding Section 103-2.3 as follows:

16 (725 ILCS 5/103-2.3 new)

17 Sec. 103-2.3. Inadmissibility of unreliable statements by  
18 defendants.

19 (a) In this Section:

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

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

7       (b) Unreliable statements to law enforcement made during a  
8       custodial interrogation conducted at a police station or other  
9       place of detention by a defendant are inadmissible at trial in  
10       any criminal court proceeding or juvenile court proceeding.

11       (c) In any proceeding under this Section, the prosecution  
12       shall timely disclose at least 30 days prior to any relevant  
13       evidentiary hearing or trial its intent to introduce a  
14       statement made during a custodial interrogation conducted at a  
15       police station or other place of detention by a defendant. At  
16       that time, the prosecution must disclose any electronic  
17       recordings of the statement and any documents relating to the  
18       circumstances under which the statement was obtained.

19       (d) Before trial, a defendant may move to exclude a  
20       statement that is unreliable. If, in that motion, the  
21       defendant presents a prima facie case that the statement is  
22       unreliable, then a hearing shall be held. This hearing shall  
23       be separate from any hearing on the voluntariness of the  
24       statement.

25       (e) At a hearing, the defendant has the burden of  
26       producing some evidence that the statement is unreliable. If

1 the defendant meets that burden, the statement is inadmissible  
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