

2021 -- H 6410

=====
LC002942
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

—————
A N A C T

RELATING TO CRIMINAL PROCEDURE -- ARREST

Introduced By: Representatives Williams, Morales, Henries, Knight, Potter, Ajello,
Alzate, Casimiro, Craven, and McEntee

Date Introduced: June 09, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 12-7 of the General Laws entitled "Arrest" is hereby amended by
2 adding thereto the following section:

3 **12-7-23. Interrogations -- Prohibition of deceptive practices.**

4 (a) Definitions. As used in this section the following words and phrases shall have the
5 following meanings:

6 (1) "Custodial interrogation" means any interrogation by any law enforcement officer or
7 peace officer as defined in § 12-7-2, of any suspect or arrestee, during which a reasonable person
8 in the subject's position would consider themselves to be in the custody of law enforcement and
9 during which, a question is asked that is reasonably likely to elicit an incriminating response.

10 (2) "Deception" means the knowing communication of false facts about evidence or
11 unauthorized statements regarding leniency by a law enforcement officer or juvenile officer to a
12 subject of custodial interrogation.

13 (3) "Impaired, intellectual disability or mental disability" means a mental disorder in which
14 the capacity of a person to exercise self-control or judgment in the conduct of his or her affairs and
15 social relations, or to care for his or her own personal needs, is significantly impaired.

16 (4) "Juvenile" means any person under the age of eighteen (18) years of age.

17 (5) "Place of detention" means any police station or building owned, used or operated by
18 any law enforcement agency in which a person is or may be held in connection with criminal
19 charges.

1 (6) "Serious mental illness" means an illness which is biologically based, severe in degree,
2 and persistent in duration, which causes a substantially diminished level of functioning in the
3 primary aspects of daily living and an inability to cope with the ordinary demands of life, which
4 may lead to an inability to maintain stable adjustment and independent functioning without long-
5 term treatment and support and which may be of lifetime duration. Serious mental illness includes
6 schizophrenia, bipolar disorders, as well as a spectrum of psychotic and other severely disabling
7 psychiatric diagnostic categories, but does not include infirmities of aging or a primary diagnosis
8 of mental retardation, alcohol or drug abuse, or anti-social behavior.

9 (7) "Substance abuse withdrawal" means the abnormal physical or psychological features
10 that follow the abrupt discontinuation of a drug that has the capability of producing physical
11 dependence.

12 (b) Any oral, written, or sign language confession or statement which implicates a suspect,
13 who at the time of the interrogation was a juvenile, or who suffered from impaired, intellectual or
14 mental disability, or suffered from serious mental illness or substance abuse withdrawal, made as
15 a result of a custodial interrogation conducted by law enforcement at a place of detention, shall be
16 presumed by to be inadmissible as evidence against the person making the confession or statement,
17 if during the interrogation, a law enforcement officer knowingly engaged in deception in obtaining
18 the confession or statement.

19 (c) The presumption of inadmissibility of a confession or statement under this section,
20 when such confession or statement was procured through the use of deception, may be overcome
21 by a preponderance of the evidence that the confession or statement was voluntarily given, based
22 on the totality of the circumstances.

23 (d) The burden of proving that the confession or statement was given voluntarily shall be
24 on the state or other prosecuting authority.

25 (e) Any objection or claim that the state or prosecuting authority has failed to call all
26 material witnesses on the issue of voluntariness of the confession or statement, must be made at or
27 before any trial and failure to raise the issue will be a bar to raising the issue on appeal.

28 SECTION 2. This act shall take effect upon passage.

=====
LC002942
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE -- ARREST

1 This act would make any confession or incriminating statement made by a suspect or
2 arrestee in a criminal charge, presumptively inadmissible if made by a juvenile, or by a person who
3 suffers from impaired/mental disability, serious mental disability or by someone suffering from
4 substance abuse withdrawal, if the statement was procured during a custodial interrogation and the
5 law enforcement officer used deception in order to procure it.

6 This act would take effect upon passage.

=====
LC002942
=====