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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1999 Session of  
2021

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INTRODUCED BY HANBIDGE, KINKEAD, N. NELSON, SANCHEZ, McNEILL,  
INNAMORATO, KINSEY, SIMS, MADDEN, SCHLOSSBERG, DALEY,  
SHUSTERMAN AND MALAGARI, OCTOBER 21, 2021

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REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 21, 2021

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in rules of evidence,  
3 providing for prohibition of deception during custodial  
4 interrogation of individual with intellectual disability or  
5 autism.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 42 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a section to read:

10 § 6145. Prohibition of deception during custodial interrogation  
11 of individual with intellectual disability or autism.

12 (a) Prohibition.--A law enforcement officer may not use  
13 deception during a custodial interrogation of an individual with  
14 an intellectual disability or autism.

15 (b) Confession inadmissible.--An oral, a written or a sign  
16 language confession of an individual with an intellectual  
17 disability or autism made as the result of a custodial  
18 interrogation conducted at a police station or other place of  
19 detention on or after the effective date of this section shall

1 be presumed to be inadmissible as evidence against the  
2 individual making the confession in a criminal proceeding or a  
3 juvenile court proceeding for an act that, if committed by an  
4 adult, would be a misdemeanor offense or felony offense under 18  
5 Pa.C.S. (relating to crimes and offenses) if, during the  
6 custodial interrogation, a law enforcement officer knowingly  
7 engages in deception. The following apply:

8 (1) The presumption of inadmissibility of the confession  
9 may be overcome by a preponderance of the evidence that the  
10 confession was voluntarily given, based on the totality of  
11 the circumstances.

12 (2) The burden of going forward with the evidence and  
13 the burden of proving that the confession was voluntary shall  
14 be on the Commonwealth.

15 (3) An objection to the failure of the Commonwealth to  
16 call all material witnesses on the issue of whether the  
17 confession was voluntary must be made in the trial court.

18 (c) Definitions.--As used in this section, the following  
19 words and phrases shall have the meanings given to them in this  
20 subsection unless the context clearly indicates otherwise:

21 "Adult." An individual who is 18 years of age or older.

22 "Custodial interrogation." An interrogation of an individual  
23 during which:

24 (1) the freedom of movement of the individual is  
25 restrained by a law enforcement officer, even if the  
26 individual is not under arrest, as determined by a reasonable  
27 person under similar circumstances; and

28 (2) a question is asked that is reasonably likely to  
29 elicit an incriminating response from the individual.

30 "Deception." The knowing communication of false facts about

1 evidence or unauthorized statements regarding leniency by a law  
2 enforcement officer to an individual subject to custodial  
3 interrogation.

4 "Individual with an intellectual disability or autism." As  
5 defined in section 5992 (relating to definitions).

6 "Law enforcement officer." As defined in section 5950(d)  
7 (relating to confidential communications involving law  
8 enforcement officers).

9 "Minor." An individual who is under 18 years of age.

10 "Place of detention." A building or police station that is a  
11 place of operation for a State or municipal police department,  
12 county sheriff department or any other law enforcement agency at  
13 which persons are or may be held in detention in connection with  
14 criminal charges or allegations that those persons are  
15 delinquent minors.

16 Section 2. This act shall take effect in 60 days.