

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Senate Committee on Judiciary

This measure may be considered for action during today's work session.

ASSEMBLY BILL 193 (First Reprint)

Revises provisions relating to custodial interrogations of children.

(BDR 14-229)

Sponsored By: Assembly Members González, D'Silva, Thomas, Anderson, and Torres, and Senator Ohrenschall, et al.

Date Heard: May 18, 2023

Fiscal Notes: Effect on Local Government: No.
Effect on the State: No.

Assembly Bill 193 prohibits a peace officer or other person authorized to conduct a custodial interrogation of a child from knowingly making a materially false statement about evidence that is reasonably likely to elicit an incriminating response from the child or from making any express or implied promise to the child of leniency or advantage that the person conducting the investigation lacks the authority to make. A child's statement obtained in violation of this provision is presumed to be involuntary and inadmissible in any criminal or juvenile proceeding. However, the State may overcome this presumption if it proves by a preponderance of the evidence that the statement was voluntary, reliable, and not induced. Finally, the bill provides exceptions to this prohibition if there is an imminent threat to life or property.

Amendments: Assemblywoman Gonzalez has offered an amendment that is attached for review. The amendment does the following:

- Moves the provisions of the bill to Chapter 62C of NRS, which pertains to the rights of minor children in the custody of law enforcement.
- Clarifies that the provisions of this section apply to a minor child who is later certified as an adult pursuant to NRS Chapter 62B.

1 EXPLANATION: Matter in (1) *blue bold italics* is new language in the
2 original bill; (2) variations of green bold underlining is language
3 proposed to be added in this amendment; (3) ~~red strikethrough~~ is
4 deleted language in the original bill.

5
6 INTENT: 1) To move the provisions of the bill to NRS Chapter 62C,
7 which pertains to the rights of minor children in the custody of law
8 enforcement; 2) to clarify that the provisions of this section apply to a
9 minor child is later certified as an adult pursuant to NRS Chapter 62B.

10
11 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
12 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

13
14 **Section 1. Chapter ~~171-62C~~ of NRS is hereby amended by adding**
15 **thereto a new section to read as follows:**

16
17 *1. Except as otherwise provided in subsection 3, a peace officer or*
18 *other person authorized to conduct a custodial interrogation of a*
19 *child taken into custody shall not during a custodial interrogation*
20 *of a child:*

21 *(a) Knowingly make a materially false statement about evidence that*
22 *is reasonably likely to elicit an incriminating response from the*
23 *child; or*

24 *(b) Make any express or implied promise to the child of leniency or*
25 *advantage for the child that the peace officer or other person*
26 *conducting the investigation lacks the authority to make, including,*
27 *without limitation, any promise about the filing of charges or*
28 *prosecution of the child.*

29 *2. A statement by a child obtained in violation of this section is*
30 *presumed to be involuntary and inadmissible in any criminal or*
31 *juvenile proceeding. The State may overcome the presumption set*
32 *forth in this subsection by proving by a preponderance of the*
33 *evidence that the statement was voluntary, reliable and not induced*
34 *by an act in violation of this section. In making a determination*
35 *pursuant to this subsection of whether the presumption has been*

36 *overcome, the finder of fact shall consider the totality of the*
37 *circumstances of the interrogation.*

38 *3. Subsection 1 does not apply to a custodial interrogation of a child*
39 *if:*

40 *(a) The peace officer or other person who conducted the custodial*
41 *interrogation of the child reasonably believed the information*
42 *sought was necessary to protect life or property from an imminent*
43 *threat;*

44 *(b) The questions asked by the peace officer or other person*
45 *were limited to those reasonably necessary to obtain information*
46 *related to the imminent threat.*

47 *4. As used in this section:*

48 *(a) "Child" means a person who is less than 18 years of age.*

49 *(b) "Custodial interrogation" means any interrogation of a*
50 *person who is required to be advised of his or her rights pursuant to*
51 *Miranda v. Arizona, 384 U.S. 436 (1966).*

52 *5. Nothing in this section shall alter the rights of a child who is*
53 *subsequently certified as an adult pursuant to NRS Chapter 62B.*