

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 01-0740.01 Michael Dohr

HOUSE BILL 01-1235

HOUSE SPONSORSHIP

Daniel

SENATE SPONSORSHIP

(None)

House Committees
Criminal Justice

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADMISSIBILITY OF OUT-OF-COURT STATEMENTS**
102 **MADE IN CONNECTION WITH CRIMINAL ACTIVITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Limits the admissibility of any out-of-court statement made by a criminal defendant or juvenile while being restrained by governmental action to an audio or audio-visual reproduction which includes the advisement of rights. Allows for use of an audio or audio-visual reproduction at a preliminary hearing without authentication if there is at least 10 days' notice and no objection is filed at least 3 days prior to the hearing.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 1 of article 25 of title 13, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4 **13-25-135. Out-of-court statements - criminal defendants -**
5 **admissibility.** (1) THE GENERAL ASSEMBLY FINDS THAT, IN CONSIDERING
6 THE MEANING AND VERACITY OF A STATEMENT, THE EXACT WORDS
7 UTTERED AND DIFFERENCES IN PITCH AND INFLECTION MAY SIGNIFICANTLY
8 CHANGE THE MEANING OF THE SPOKEN WORD. THE GENERAL ASSEMBLY
9 FURTHER FINDS THAT, IN DETERMINING THE MEANING OF A STATEMENT
10 MADE BY A PERSON ACCUSED OF CRIMINAL ACTIVITY, THE FINDER OF FACT
11 DESERVES THE BEST EVIDENCE OF SUCH STATEMENTS.

12 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN
13 OUT-OF-COURT ORAL STATEMENT MADE BY A CRIMINAL DEFENDANT OR A
14 JUVENILE WHO IS THE SUBJECT OF A DELINQUENCY PROCEEDING, MADE
15 WHILE SUCH PERSON IS RESTRAINED OF THEIR LIBERTY BY GOVERNMENTAL
16 ACTION, SHALL ONLY BE ADMISSIBLE IN COURT BY AUDIO OR AUDIO-VISUAL
17 REPRODUCTION WHICH FAITHFULLY REPRODUCES THE ENTIRETY OF SUCH
18 STATEMENT. NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO
19 PREVENT THE EXCISION OF MATERIAL FROM SUCH STATEMENT WHICH IS
20 SUBJECT TO EXCISION UNDER THE COLORADO RULES OF EVIDENCE OR
21 EXISTING LAW.

22 (3) IN PRELIMINARY PROCEEDINGS TO DETERMINE THE
23 ADMISSIBILITY OF SUCH AN OUT-OF-COURT STATEMENT, THE AUDIO OR
24 AUDIO-VISUAL REPRODUCTION MAY BE ADMITTED BY THE COURT WITHOUT
25 THE NECESSITY OF A LIVE WITNESS TO AUTHENTICATE THE REPRODUCTION,
26 IF THE PROPONENT OF THE EVIDENCE PROVIDES THE OPPOSING PARTY A

1 COPY OF THE STATEMENT AND AT LEAST TEN DAYS' WRITTEN NOTICE OF HIS
2 OR HER INTENT TO ADMIT SUCH REPRODUCTION WITHOUT A FOUNDATIONAL
3 WITNESS AND NO OBJECTION IS FILED WITH THE COURT AT LEAST
4 SEVENTY-TWO HOURS PRIOR TO THE HEARING.

5 (4) TO BE CONSIDERED BY THE COURT, ANY ADVISEMENTS OR
6 WAIVERS NECESSARY TO THE ADMISSIBILITY OF ANY STATEMENT COVERED
7 BY THIS SECTION SHALL BE INCLUDED, OR REPEATED, IN THE REPRODUCED
8 STATEMENT.

9 **SECTION 2. Effective date - applicability.** (1) This act shall
10 take effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly that is
12 allowed for submitting a referendum petition pursuant to article V, section
13 1 (3) of the state constitution; except that, if a referendum petition is filed
14 against this act or an item, section, or part of this act within such period,
15 then the act, item, section, or part, if approved by the people, shall take
16 effect on the date of the official declaration of the vote thereon by
17 proclamation of the governor.

18 (2) The provisions of this act shall apply to all statements made on
19 or after the applicable effective date of this act.