

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 25-1049

BY REPRESENTATIVE(S) Garcia, Bacon, Boesenecker, Brown, Clifford, Froelich, Jackson, Lindsay, Mabrey, McCormick, Sirota, Smith, Titone, Woodrow, Zokaie;
also SENATOR(S) Amabile and Gonzales J., Ball, Cutter, Exum, Hinrichsen, Jodeh, Kipp, Michaelson Jenet, Sullivan, Wallace, Weissman, Coleman.

CONCERNING COMMUNICATION RIGHTS FOR PERSONS IN CUSTODY.

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

SECTION 1. In Colorado Revised Statutes, **add** 16-3-400.3 as follows:

16-3-400.3. Definitions. AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUTHORIZED REPRESENTATIVE" MEANS A PROFESSIONAL PERSON WHO IS EMPLOYED BY OR UNDER CONTRACT WITH AN ATTORNEY, THE ATTORNEY'S OFFICE, OR WITH A STATE AGENCY TO ASSIST IN PROVIDING LEGAL REPRESENTATION TO A PERSON COMMITTED, IMPRISONED, OR ARRESTED AND WHO HAS BEEN AUTHORIZED BY THE ATTORNEY TO CONSULT

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

WITH THEIR CLIENTS AND THE AUTHORIZATION CAN BE CONFIRMED BY LAW ENFORCEMENT PRIOR TO ALLOWING THE CONSULTATION.

(2) "PLACE OF CONFINEMENT" MEANS A JAIL OR OTHER FIXED PLACE OF CONFINEMENT OPERATED BY THE COUNTY OR OTHER GOVERNMENTAL AUTHORITY TO HOLD PERSONS COMMITTED, IMPRISONED, OR ARRESTED FOR ANY CAUSE, OR A FACILITY OR OTHER FIXED PLACE OF CONFINEMENT OPERATED BY THE DEPARTMENT OF CORRECTIONS OR UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS AT WHICH THE IN-CUSTODY PERSON IS HELD FOR MORE THAN TWENTY-FOUR HOURS.

SECTION 2. In Colorado Revised Statutes, 16-3-402, **amend** (1), (2), and (3) as follows:

16-3-402. Right to communicate with attorney and family.

(1) ~~Persons who are arrested shall have~~ A PERSON WHO IS ARRESTED HAS the right to communicate with an attorney of ~~their~~ THE PERSON'S choice and a member of ~~their~~ THE PERSON'S family by making a reasonable number of telephone calls or by communicating in any other reasonable manner. ~~Such~~ THE communication ~~shall~~ MUST be permitted at the earliest possible time after arrival at the police station, sheriff's office, jail, or other like confinement facility to which ~~such~~ THE person is first taken after arrest.

(2) If the accused PERSON is transferred to a new place of custody, ~~his~~ THE ACCUSED PERSON'S right to communicate with an attorney and a member of ~~his~~ THE ACCUSED PERSON'S family is renewed.

(3) (a) Consistent with ~~the provisions of~~ section 21-1-103, ~~C.R.S.~~, if ~~any~~ A person in custody indicates in any manner ~~his~~ THE desire to speak with an attorney, or the court determines that an inquiry into the matter of indigency should occur, ~~the~~ A public defender ~~shall be~~ OR THE PUBLIC DEFENDER'S AUTHORIZED REPRESENTATIVE IS permitted to communicate with that person to determine whether ~~that~~ THE person IN CUSTODY has counsel, ~~and, if~~ WHETHER the person IN CUSTODY desires ~~that~~ REPRESENTATION FROM the public defender, ~~represent him~~, AND to make an initial determination as to whether the person IN CUSTODY is indigent. If the public defender OR THE PUBLIC DEFENDER'S AUTHORIZED REPRESENTATIVE determines that the person IN CUSTODY is indigent, ~~such~~ THE person IN CUSTODY shall apply for representation by the public defender in accordance with section 21-1-103. ~~C.R.S.~~

(b) The public defender, upon his request and with due regard for reasonable law enforcement administrative AND OPERATIONAL procedures, ~~shall be~~ IS permitted to determine whether or not ~~any~~ A person in custody has been taken without unnecessary delay before the nearest available county or district judge.

SECTION 3. In Colorado Revised Statutes, **amend** 16-3-403 as follows:

16-3-403. Right to consult with attorney. ~~Any~~ A person committed, imprisoned, or arrested for any cause, whether or not ~~such~~ THE person is charged with an offense, ~~shall be~~ IS allowed to consult with an attorney-at-law of this state OR THE ATTORNEY'S AUTHORIZED REPRESENTATIVE whom ~~such~~ THE person desires to see or consult, alone and in private at the place of custody, as many times and for ~~such~~ A period each time as is reasonable. Except where extradition proceedings have been completed or are not required by law, when ~~any such~~ A person is about to be moved beyond the limits of this state, the person to be moved ~~shall be~~ IS entitled to a reasonable delay for the purpose of obtaining counsel and ~~of availing himself of~~ BENEFITING FROM the laws of this state for the security of personal liberty.

SECTION 4. In Colorado Revised Statutes, 16-3-404, **amend** (1); and **add** (1.5) as follows:

16-3-404. Duty of officers to admit attorney. (1) All peace officers or persons having in custody ~~any~~ A person committed, imprisoned, or arrested for any alleged cause shall forthwith admit ~~any~~ AN attorney-at-law in this state OR THE ATTORNEY'S AUTHORIZED REPRESENTATIVE, upon the demand of the ~~prisoner~~ CONFINED PERSON or of a friend, relative, spouse, or attorney of the ~~prisoner~~ CONFINED PERSON, to see and consult the ~~person so imprisoned~~ CONFINED PERSON, alone and in private, at the jail or other place of custody, if ~~such person so imprisoned~~ THE CONFINED PERSON expressly consents to see or to consult with the attorney OR THE ATTORNEY'S AUTHORIZED REPRESENTATIVE.

(1.5) IN ADDITION TO IN-PERSON COMMUNICATION, A PEACE OFFICER OR PERSON EMPLOYED AT A PLACE OF CONFINEMENT SHALL PROVIDE AN ATTORNEY-AT-LAW IN THIS STATE OR THE ATTORNEY'S AUTHORIZED REPRESENTATIVE THE ABILITY TO INITIATE COMMUNICATION WITH THE

CONFINED PERSON THROUGH TELEPHONE CALLS, INTERACTIVE AUDIOVISUAL CONFERENCING, OR ANY OTHER REASONABLE METHOD OF ELECTRONIC COMMUNICATION, AS DETERMINED BY THE JAIL OR CORRECTIONAL FACILITY ADMINISTRATION, THAT ALLOWS THE CONFINED PERSON AND THE ATTORNEY OR AUTHORIZED REPRESENTATIVE TO SPEAK TO EACH OTHER. THE COMMUNICATION MUST BE PRIVATE, UNRECORDED, AND WITHOUT COST TO THE CONFINED PERSON AND ATTORNEY OR THE ATTORNEY'S REPRESENTATIVE. PEACE OFFICERS OR PERSONS HAVING CUSTODY OF THE CONFINED PERSON SHALL ALLOW THE COMMUNICATION DESCRIBED IN THIS SECTION ON A FORTHWITH BASIS, SUBJECT TO ALL REASONABLE ADMINISTRATIVE AND OPERATIONAL PROCEDURES AND IN THE MANNER AS DETERMINED BY THE FACILITY ADMINISTRATION.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO