

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0303.01 Michael Dohr x4347

HOUSE BILL 25-1049

HOUSE SPONSORSHIP

Garcia,

SENATE SPONSORSHIP

Amabile and Gonzales J.,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING COMMUNICATION RIGHTS FOR PERSONS IN CUSTODY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Legislative Oversight Committee Concerning Colorado Jail Standards. Current law allows a person who is committed, imprisoned, or arrested (person in custody) the right to communicate with an attorney or family member by making a reasonable number of telephone calls or through any other reasonable manner. The bill adds the right for a person in custody to receive a reasonable number of telephone calls or other reasonable communications and to communicate through interactive audiovisual conferencing, if available.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Current law allows a person in custody the right to consult with an attorney. The bill clarifies that the person in custody has the right to make and receive private and unrecorded legal telephone calls without cost, and, alternatively, to communicate through private unrecorded interactive audiovisual conferencing.

Current law requires all peace officers or individuals who have a person in custody to allow the person in custody to see and consult with an attorney, alone and in private, at the location the person in custody is being held. The bill expands this requirement to allow the attorney for the person in custody to call and consult with the person in custody by telephone through a private and unrecorded legal telephone call without cost or by making and receiving private and unrecorded interactive audiovisual conferencing calls without cost.

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

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

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

6 (1) "AUTHORIZED REPRESENTATIVE" MEANS A PROFESSIONAL
7 PERSON WHO IS EMPLOYED BY OR UNDER CONTRACT WITH AN ATTORNEY,
8 THE ATTORNEY'S OFFICE, OR WITH A STATE AGENCY TO ASSIST IN
9 PROVIDING LEGAL REPRESENTATION TO A PERSON COMMITTED,
10 IMPRISONED, OR ARRESTED AND WHO HAS BEEN AUTHORIZED BY THE
11 ATTORNEY TO CONSULT WITH THEIR CLIENTS AND THE AUTHORIZATION
12 CAN BE CONFIRMED BY LAW ENFORCEMENT PRIOR TO ALLOWING THE
13 CONSULTATION.

14 (2) "PLACE OF CONFINEMENT" MEANS A JAIL OR OTHER FIXED
15 PLACE OF CONFINEMENT OPERATED BY THE COUNTY OR OTHER
16 GOVERNMENTAL AUTHORITY TO HOLD PERSONS COMMITTED, IMPRISONED,
17 OR ARRESTED FOR ANY CAUSE, OR A FACILITY OR OTHER FIXED PLACE OF
18 CONFINEMENT OPERATED BY THE DEPARTMENT OF CORRECTIONS OR

1 UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS AT WHICH THE
2 IN-CUSTODY PERSON IS HELD FOR MORE THAN TWENTY-FOUR HOURS.

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

5 **16-3-402. Right to communicate with attorney and family.**

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

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

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

1 THE person IN CUSTODY shall apply for representation by the public
2 defender in accordance with section 21-1-103. ~~C.R.S.~~

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

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

10 **16-3-403. Right to consult with attorney.** ~~Any~~ A person
11 committed, imprisoned, or arrested for any cause, whether or not ~~such~~
12 THE person is charged with an offense, ~~shall be~~ IS allowed to consult with
13 an attorney-at-law of this state OR THE ATTORNEY'S AUTHORIZED
14 REPRESENTATIVE whom ~~such~~ THE person desires to see or consult, alone
15 and in private at the place of custody, as many times and for ~~such~~ A
16 period each time as is reasonable. Except where extradition proceedings
17 have been completed or are not required by law, when ~~any such~~ A person
18 is about to be moved beyond the limits of this state, the person to be
19 moved ~~shall be~~ IS entitled to a reasonable delay for the purpose of
20 obtaining counsel and ~~of availing himself of~~ BENEFITING FROM the laws
21 of this state for the security of personal liberty.

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

24 **16-3-404. Duty of officers to admit attorney.** (1) All peace
25 officers or persons having in custody ~~any~~ A person committed,
26 imprisoned, or arrested for any alleged cause shall forthwith admit ~~any~~ AN
27 attorney-at-law in this state OR THE ATTORNEY'S AUTHORIZED

1 REPRESENTATIVE, upon the demand of the ~~prisoner~~ CONFINED PERSON or
2 of a friend, relative, spouse, or attorney of the ~~prisoner~~ CONFINED PERSON,
3 to see and consult the ~~person so imprisoned~~ CONFINED PERSON, alone and
4 in private, at the jail or other place of custody, if ~~such person so~~
5 ~~imprisoned~~ THE CONFINED PERSON expressly consents to see or to consult
6 with the attorney OR THE ATTORNEY'S AUTHORIZED REPRESENTATIVE.

7 (1.5) IN ADDITION TO IN-PERSON COMMUNICATION, A PEACE
8 OFFICER OR PERSON EMPLOYED AT A PLACE OF CONFINEMENT SHALL
9 PROVIDE AN ATTORNEY-AT-LAW IN THIS STATE OR THE ATTORNEY'S
10 AUTHORIZED REPRESENTATIVE THE ABILITY TO INITIATE COMMUNICATION
11 WITH THE CONFINED PERSON THROUGH TELEPHONE CALLS, INTERACTIVE
12 AUDIOVISUAL CONFERENCING, OR ANY OTHER REASONABLE METHOD OF
13 ELECTRONIC COMMUNICATION, AS DETERMINED BY THE JAIL OR
14 CORRECTIONAL FACILITY ADMINISTRATION, THAT ALLOWS THE CONFINED
15 PERSON AND THE ATTORNEY OR AUTHORIZED REPRESENTATIVE TO SPEAK
16 TO EACH OTHER. THE COMMUNICATION MUST BE PRIVATE, UNRECORDED,
17 AND WITHOUT COST TO THE CONFINED PERSON AND ATTORNEY OR THE
18 ATTORNEY'S REPRESENTATIVE. PEACE OFFICERS OR PERSONS HAVING
19 CUSTODY OF THE CONFINED PERSON SHALL ALLOW THE COMMUNICATION
20 DESCRIBED IN THIS SECTION ON A FORTHWITH BASIS, SUBJECT TO ALL
21 REASONABLE ADMINISTRATIVE AND OPERATIONAL PROCEDURES AND IN
22 THE MANNER AS DETERMINED BY THE FACILITY ADMINISTRATION.

23 **SECTION 5. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2026 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.