

REFERENCE TITLE: juveniles; custodial interrogation; attorney; recordings

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1303**

Introduced by  
Senators Quezada: Terán; Representatives Andrade, Hernandez M

AN ACT

AMENDING TITLE 8, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 8-310; AMENDING SECTION 11-584, ARIZONA REVISED STATUTES;  
RELATING TO JUVENILES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 8, chapter 3, article 1, Arizona Revised Statutes,  
3 is amended by adding section 8-310, to read:

4 8-310. Custodial interrogations; appointment of counsel;  
5 electronic recording; definitions

6 A. A LAW ENFORCEMENT OFFICER MAY NOT INTERROGATE A JUVENILE WHO IS  
7 UNDER FIFTEEN YEARS OF AGE BEFORE THE JUVENILE IS APPOINTED A PUBLIC  
8 DEFENDER OR COURT-APPOINTED COUNSEL TO REPRESENT THE JUVENILE DURING A  
9 CUSTODIAL INTERROGATION. THE JUVENILE IS NOT REQUIRED TO PAY A FEE FOR  
10 THE PUBLIC DEFENDER'S OR COURT-APPOINTED COUNSEL'S REPRESENTATION DURING A  
11 CUSTODIAL INTERROGATION. A PUBLIC DEFENDER OR COURT-APPOINTED COUNSEL WHO  
12 REPRESENTS A JUVENILE DURING A CUSTODIAL INTERROGATION IS NOT DEEMED TO BE  
13 THE JUVENILE'S ATTORNEY OF RECORD, AND ANY DUTY TO REPRESENT THE JUVENILE  
14 TERMINATES ON THE JUVENILE'S FIRST COURT APPEARANCE THAT IS RELATED TO THE  
15 CUSTODIAL INTERROGATION UNLESS THE COURT DETERMINES THAT THE JUVENILE IS  
16 INDIGENT AND REAPPOINTS THE PUBLIC DEFENDER OR COURT-APPOINTED COUNSEL.

17 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY IF THE LAW  
18 ENFORCEMENT OFFICER REASONABLY BELIEVES THAT THE JUVENILE HAS INFORMATION  
19 THAT IS NECESSARY TO PROTECT AN IMMINENT THREAT TO A PERSON'S LIFE OR  
20 PROPERTY AND THE LAW ENFORCEMENT OFFICER'S QUESTIONS ARE LIMITED TO  
21 QUESTIONS THAT ARE REASONABLY NECESSARY TO OBTAIN THE INFORMATION TO  
22 PROTECT LIFE OR PROPERTY.

23 C. ANY ORAL, WRITTEN OR SIGN LANGUAGE STATEMENT THAT IS MADE BY A  
24 JUVENILE DURING AN INTERROGATION OF A JUVENILE WHO IS IN THE CUSTODY OF A  
25 LAW ENFORCEMENT OFFICER OR LAW ENFORCEMENT AGENCY SHALL BE ELECTRONICALLY  
26 RECORDED IN ITS ENTIRETY AND SHALL REMAIN SUBSTANTIALLY ACCURATE AND NOT  
27 INTENTIONALLY ALTERED.

28 D. SUBSECTION C OF THIS SECTION DOES NOT APPLY TO A STATEMENT THAT  
29 IS ANY OF THE FOLLOWING:

30 1. MADE BY THE JUVENILE IN OPEN COURT, BEFORE A GRAND JURY OR AT A  
31 PRELIMINARY HEARING.

32 2. SPONTANEOUS AND NOT MADE IN RESPONSE TO A QUESTION.

33 3. MADE AFTER QUESTIONING THAT IS ROUTINELY ASKED DURING THE  
34 PROCESSING OF A SUSPECT.

35 4. MADE DURING A CUSTODIAL INTERROGATION THAT WAS CONDUCTED OUT OF  
36 STATE.

37 5. OBTAINED BY A FEDERAL LAW ENFORCEMENT OFFICER IN A FEDERAL PLACE  
38 OF DETENTION.

39 6. GIVEN AT A TIME WHEN THE INTERROGATORS WERE UNAWARE THAT THE  
40 JUVENILE WAS SUSPECTED OF COMMITTING A CRIMINAL OFFENSE.

41 7. OTHERWISE INADMISSIBLE UNDER THIS SECTION BUT THAT IS USED ONLY  
42 FOR IMPEACHMENT AND NOT AS SUBSTANTIVE EVIDENCE.

43 E. THE STATE MAY NOT DESTROY OR ALTER ANY ELECTRONIC RECORDING THAT  
44 IS MADE OF A CUSTODIAL INTERROGATION UNTIL THE FINAL DISPOSITION OF THE  
45 JUVENILE'S CASE.

1 F. FOR THE PURPOSES OF THIS SECTION:  
2 1. "CUSTODIAL INTERROGATION" MEANS ANY INTERROGATION THAT IS  
3 CONDUCTED IN A PLACE OF DETENTION FROM THE TIME A JUVENILE IS GIVEN A  
4 MIRANDA WARNING UNTIL THE JUVENILE IS RELEASED FROM CUSTODY.  
5 2. "ELECTRONIC RECORDING" MEANS A MOTION PICTURE, AUDIOTAPE,  
6 VIDEOTAPE OR DIGITAL RECORDING.  
7 3. "PLACE OF DETENTION" MEANS A POLICE STATION, CORRECTIONAL  
8 FACILITY, HOLDING FACILITY FOR PRISONERS OR OTHER GOVERNMENT FACILITY  
9 WHERE PERSONS ARE HELD IN DETENTION IN CONNECTION WITH CRIMINAL CHARGES  
10 THAT HAVE BEEN OR MAY BE FILED AGAINST THEM.  
11 Sec. 2. Section 11-584, Arizona Revised Statutes, is amended to  
12 read:  
13 11-584. Public defender; duties; reimbursement  
14 A. The public defender, on order of the court, shall defend, advise  
15 and counsel any person who is entitled to counsel as a matter of law and  
16 who is not financially able to employ counsel in the following proceedings  
17 and circumstances:  
18 1. Offenses triable in the superior court or justice courts at all  
19 stages of the proceedings, including the preliminary examination.  
20 2. Extradition hearings.  
21 3. Mental disorder hearings only if appointed by the court under  
22 title 36, chapter 5.  
23 4. Involuntary commitment hearings held pursuant to title 36,  
24 chapter 18, only if appointed by the court.  
25 5. Involuntary commitment hearings held pursuant to title 36,  
26 chapter 37, if appointed by the court as provided in section 36-3704,  
27 subsection C and the board of supervisors has advised the presiding judge  
28 of the county that the public defender is authorized to accept these  
29 appointments.  
30 6. Juvenile delinquency and incorrigibility proceedings only if  
31 appointed by the court under section 8-221.  
32 7. Appeals to a higher court or courts.  
33 8. All juvenile proceedings other than delinquency and  
34 incorrigibility proceedings under paragraph 6 of this subsection,  
35 including serving as a guardian ad litem, if appointed by the court  
36 pursuant to section 8-221 and the board of supervisors has advised the  
37 presiding judge of the county that the public defender is authorized to  
38 accept these appointments.  
39 9. All mental health hearings regarding release recommendations  
40 that are held in the superior court pursuant to title 13, chapter 38,  
41 article 14 and the board of supervisors has advised the presiding judge of  
42 the superior court in the county that the public defender is authorized to  
43 accept these appointments.

1           10. As attorneys in any other proceeding or circumstance in which a  
2 party is entitled to counsel as a matter of law if the court appoints the  
3 public defender and the board of supervisors has advised the presiding  
4 judge of the county that the public defender is authorized to accept these  
5 appointments as specified.

6           11. ALL CUSTODIAL INTERROGATIONS OF A JUVENILE WHO IS UNDER FIFTEEN  
7 YEARS OF AGE. THE PUBLIC DEFENDER OR COURT-APPOINTED COUNSEL IS NOT  
8 DEEMED TO BE THE ATTORNEY OF RECORD FOR THE JUVENILE SOLELY FOR  
9 REPRESENTING THE JUVENILE AT A CUSTODIAL INTERROGATION PURSUANT TO SECTION  
10 8-310 UNLESS THE PUBLIC DEFENDER OR COURT-APPOINTED COUNSEL IS REAPPOINTED  
11 TO REPRESENT THE JUVENILE IN THE CRIMINAL PROCEEDINGS.

12           B. The public defender shall perform the following duties:

13           1. Keep a record of all services rendered by the public defender in  
14 that capacity and file with the board of supervisors an annual report of  
15 those services.

16           2. By December 1 of each year, file with the presiding judge of the  
17 superior court, the chief probation officer and the board of supervisors  
18 an annual report on the average cost of defending a felony case.

19           C. Although the services of the public defender or ~~court appointed~~  
20 COURT-APPOINTED counsel shall be without expense to the defendant, the  
21 juvenile, a parent or any other party, the court may make the following  
22 assessments:

23           1. Order an indigent administrative assessment of not more than  
24 \$25.

25           2. Order an administrative assessment fee of not more than \$25 to  
26 be paid by the juvenile or the juvenile's parent or guardian.

27           3. Require that the defendant, including a defendant who is placed  
28 on probation, a juvenile, a parent or any other party who is appointed  
29 counsel under subsection A of this section repay to the county a  
30 reasonable amount to reimburse the county for the cost of the person's  
31 legal services. Reimbursement for legal services in a delinquency,  
32 dependency or termination proceeding shall be ordered pursuant to section  
33 8-221. Reimbursement for legal services in a guardianship or  
34 conservatorship proceeding shall be ordered pursuant to section 14-5414.

35           D. In determining the amount and method of payment the court shall  
36 take into account the financial resources of the defendant and the nature  
37 of the burden that the payment will impose.

38           E. Assessments collected pursuant to subsection C of this section  
39 shall be paid into the county general fund in the account designed for use  
40 solely by the public defender and ~~court appointed~~ COURT-APPOINTED counsel  
41 to defray the costs of public defenders and ~~court appointed~~  
42 COURT-APPOINTED counsel. The assessments shall supplement, not supplant,  
43 funding provided by counties for public defense, legal defense and  
44 contract indigent defense counsel in each county.