

117TH CONGRESS  
2D SESSION

# H. R. 8794

To provide a right of action for a violation of certain procedural safeguards effective to secure the privilege against self-incrimination, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2022

Mr. TORRES of New York introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide a right of action for a violation of certain procedural safeguards effective to secure the privilege against self-incrimination, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Miranda Rights Res-  
5 toration Act of 2022”.

1 **SEC. 2. PROTECTION OF PROCEDURAL SAFEGUARDS TO SE-**  
2 **CURE PRIVILEGE AGAINST SELF-INCRIMINA-**  
3 **TION.**

4 (a) IN GENERAL.—Any person who is subject to cus-  
5 todial interrogation shall be afforded the procedural safe-  
6 guards described under subsection (b) in order to secure  
7 the privilege against self-incrimination pursuant to the  
8 fifth and fourteenth amendment of the Constitution of the  
9 United States.

10 (b) PROCEDURAL SAFEGUARDS DESCRIBED.—The  
11 procedural safeguards afforded to a person subject to cus-  
12 todial interrogation shall include:

13 (1) The right to a clear and unequivocal warn-  
14 ing by a law enforcement officer that the person has  
15 the right to remain silent, which if waived, may re-  
16 sult in a statement being used as evidence against  
17 the person in a criminal prosecution.

18 (2) The right to retain and consult with an at-  
19 torney and have the attorney present during a custo-  
20 dial interrogation.

21 (3) The right to have an attorney appointed if  
22 the person is indigent.

23 (4) The right to be informed of the rights de-  
24 scribed in paragraphs (1) through (3) before any  
25 custodial interrogation begins.

1           (c) WAIVER OF PROCEDURAL SAFEGUARDS.—A per-  
2 son may waive the rights described in paragraphs (1)  
3 through (3) of subsection (b) only if such waiver is know-  
4 ingly, intelligently, and voluntarily made.

5           (d) PRIVATE RIGHT OF ACTION.—A violation of sub-  
6 section (a) constitutes a deprivation of any rights, privi-  
7 leges, or immunities secured by the Constitution and laws  
8 for purposes of section 1979 of the Revised Statutes of  
9 the United States (42 U.S.C. 1983), and a person injured  
10 thereby may bring an action under such section.

11          (e) RIGHT OF ACTION AGAINST ACTING UNDER  
12 FEDERAL AUTHORITY.—Section 1979 of the Revised  
13 Statutes (42 U.S.C. 1983) is amended by inserting “of  
14 the United States or” before “of any State”.

15          (f) CUSTODIAL INTERROGATION DEFINED.—In this  
16 section, the term “custodial interrogation” means ques-  
17 tioning or other conduct by a law enforcement officer  
18 which is reasonably likely to elicit an incriminating re-  
19 sponse from an individual and occurs when reasonable in-  
20 dividuals in the same circumstances would consider them-  
21 selves in custody.

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