

SSB 5288 - H COMM AMD

By Committee on Juvenile Justice & Family Law

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 13.40 RCW
4 to read as follows:

5 Parents have a fundamental interest in knowing if their child has
6 been taken into police custody for questioning and where their child is
7 being held. Because a parent or guardian is most often in a position
8 to provide a juvenile with guidance in matters of great importance to
9 a juvenile, it is the intent of the legislature to assist parents in
10 their ability to aid and guide their children when making important
11 legal decisions, including the decision to waive legal rights during
12 custodial interrogations. It is also the intent of the legislature to
13 provide children in police custody the opportunity to seek and receive
14 consultation with his or her parents.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.40 RCW
16 to read as follows:

17 (1) When a law enforcement officer takes a juvenile into custody,
18 the officer must make reasonable attempts to notify a parent, guardian,
19 or custodian that the juvenile is in custody and where the juvenile is
20 being held.

21 (2) When a parent, guardian, or custodian requests to consult with
22 a juvenile age fifteen or younger who is in custody, and makes himself
23 or herself immediately available in person or by telephone, he or she
24 must be permitted to consult with the juvenile immediately upon his or
25 her request, unless: (a) The juvenile objects to the consultation; or
26 (b) the parent, guardian, or custodian is a codefendant or victim of
27 the juvenile.

1 **Sec. 3.** RCW 13.40.140 and 1981 c 299 s 11 are each amended to read
2 as follows:

3 (1) Prior to questioning a juvenile in custody, law enforcement
4 must advise a juvenile of his or her rights in substantially the
5 following language:

6 (a) That the juvenile has a right to remain silent;

7 (b) That any statement the juvenile makes can be and may be used
8 against the juvenile;

9 (c) That the juvenile has a right to consult with an attorney and
10 the right to have an attorney present during questioning;

11 (d) That if the juvenile or his or her family cannot afford to hire
12 an attorney, an attorney will be provided; and

13 (e) That the juvenile has a right to consult with his or her
14 parent, guardian, or custodian.

15 (2) A juvenile shall be advised of his or her rights when appearing
16 before the court.

17 (~~(+2)~~) (3) A juvenile and his or her parent, guardian, or
18 custodian shall be advised by the court or its representative that the
19 juvenile has a right to be represented by counsel at all critical
20 stages of the proceedings. Unless waived, counsel shall be provided to
21 a juvenile who is financially unable to obtain counsel without causing
22 substantial hardship to himself or herself or the juvenile's family, in
23 any proceeding where the juvenile may be subject to transfer for
24 criminal prosecution, or in any proceeding where the juvenile may be in
25 danger of confinement. The ability to pay part of the cost of counsel
26 does not preclude assignment. In no case may a juvenile be deprived of
27 counsel because of a parent, guardian, or custodian refusing to pay
28 therefor. The juvenile shall be fully advised of his or her right to
29 an attorney and of the relevant services an attorney can provide.

30 (~~(+3)~~) (4) The right to counsel includes the right to the
31 appointment of experts necessary, and the experts shall be required
32 pursuant to the procedures and requirements established by the supreme
33 court.

34 (~~(+4)~~) (5) Upon application of a party, the clerk of the court
35 shall issue, and the court on its own motion may issue, subpoenas
36 requiring attendance and testimony of witnesses and production of
37 records, documents, or other tangible objects at any hearing, or such
38 subpoenas may be issued by an attorney of record.

1 ~~((+5))~~ (6) All proceedings shall be transcribed verbatim by means
2 which will provide an accurate record.

3 ~~((+6))~~ (7) The general public and press shall be permitted to
4 attend any hearing unless the court, for good cause, orders a
5 particular hearing to be closed. The presumption shall be that all
6 such hearings will be open.

7 ~~((+7))~~ (8) In all adjudicatory proceedings before the court, all
8 parties shall have the right to adequate notice, discovery as provided
9 in criminal cases, opportunity to be heard, confrontation of witnesses
10 except in such cases as this chapter expressly permits the use of
11 hearsay testimony, findings based solely upon the evidence adduced at
12 the hearing, and an unbiased fact-finder.

13 ~~((+8))~~ (9) A juvenile shall be accorded the same privilege against
14 self-incrimination as an adult. An extrajudicial statement which would
15 be constitutionally inadmissible in a criminal proceeding may not be
16 received in evidence at an adjudicatory hearing over objection.
17 Evidence illegally seized or obtained may not be received in evidence
18 over objection at an adjudicatory hearing to prove the allegations
19 against the juvenile if the evidence would be inadmissible in an adult
20 criminal proceeding. An extrajudicial admission or confession made by
21 the juvenile out of court is insufficient to support a finding that the
22 juvenile committed the acts alleged in the information unless evidence
23 of a corpus delicti is first independently established in the same
24 manner as required in an adult criminal proceeding.

25 ~~((+9))~~ (10) Waiver of any right which a juvenile has under this
26 chapter must be an express waiver intelligently made by the juvenile
27 after the juvenile has been fully informed of the right being waived.

28 ~~((+10))~~ (11) Whenever this chapter refers to waiver or objection
29 by a juvenile, the word juvenile shall be construed to refer to a
30 juvenile who is at least twelve years of age. If a juvenile is under
31 twelve years of age, the juvenile's parent, guardian, or custodian
32 shall give any waiver or offer any objection contemplated by this
33 chapter."

34 Correct the title.

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