
**Juvenile Justice & Family Law
Committee**

SSB 5288

Brief Description: Specifying how custodial interrogations of juveniles may be conducted.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators McAuliffe, Hargrove, Stevens, Regala, Thibaudeau and Carrell).

Brief Summary of Substitute Bill

- Requires law enforcement to make reasonable attempts to notify a child's parent, guardian, or custodian when the child is taken into custody and is being held.
- Requires law enforcement to permit a parent to immediately consult with his or her child upon the parent's request, unless the child objects or if the parent is a co-defendant or victim.
- Requires law enforcement to advise a juvenile who is in custody of specific rights including the right to remain silent, counsel, and to consult with a parent, guardian or custodian.

Hearing Date: 3/23/05

Staff: Sonja Hallum (786-7092).

Background:

Juveniles who are accused of criminal activity are provided essentially the same constitutional guarantees and procedural safeguards as an adult defendant. Once such right guaranteed to a juvenile who is charged with a criminal offense is the privilege against self-incrimination.

Prior to questioning a juvenile who is in custody, law enforcement is required to notify the juvenile of his or her right to remain silent, the fact that anything the juvenile says may be used against him or her, and that he or she has the right to counsel. This is the same notification that must be provided to adults and is commonly referred to as the "Miranda" warning based on the name of a United States Supreme Court case that recognized the right to the notification.

A juvenile may choose to waive his or her right to self-incrimination. Under Washington case law, a court will review decisions to waive the privilege against self-incrimination to determine whether the waiver was knowing and voluntary. The court will look to the circumstances

surrounding the waiver and determine if the juvenile understood the rights he or she waived and whether the waiver was voluntary, and not coerced.

Summary of Bill:

When a law enforcement officer takes a child into custody, the officer is required to make reasonable attempts to notify a child's parent, guardian, or custodian that the child is in custody and where the child is being held.

When a parent, guardian or custodian requests to consult with the child, and makes himself or herself immediately available, law enforcement must permit the parent to immediately consult with his or her child, unless the child objects or if the parent is a co-defendant or victim of the juvenile.

Law enforcement must advise a juvenile who is in custody of specific rights including the right to remain silent, anything the juvenile says may be used against him, the right to counsel, the right to have counsel appointed if the juvenile cannot afford to hire an attorney, and the right to consult with a parent, guardian or custodian.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.