

SENATE BILL REPORT

ESSB 6065

As Passed Senate, February 8, 2018

Title: An act relating to school district policy and procedures for interviews and interrogations of students on school premises.

Brief Description: Adopting policy and procedures on student interviews and interrogations.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Wellman, Hunt and Hasegawa).

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/15/18, 1/23/18, 1/25/18 [DPS, w/oRec].

Floor Activity:

Passed Senate: 2/08/18, 47-0.

Brief Summary of Engrossed First Substitute Bill

- Requires school districts to adopt a policy and procedures for interviews and interrogations of students on school premises that includes certain elements.
- Directs school districts to notify law enforcement officers within their boundaries of the policy and procedures.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 6065 be substituted therefor, and the substitute bill do pass.

Signed by Senators Wellman, Chair; Rolfes, Vice Chair; Billig, Hunt, Mullet, Pedersen and Rivers.

Minority Report: That it be referred without recommendation.

Signed by Senators Zeiger, Ranking Member; Hawkins and Padden.

Staff: Ailey Kato (786-7434)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: The federal and state constitutions protect the right against self-incrimination and the right to counsel. State law provides that a juvenile under 12 cannot waive their rights. A juvenile's parent or guardian must provide a waiver for a juvenile's confession to be admissible in a court.

A juvenile 12 and older may waive their rights only after the juvenile has been fully informed of the right being waived. A waiver must be express and intelligently made.

In 2013, the Washington State School Directors' Association (WSSDA) revised its model policy and procedures for interviews and interrogations of students on school premises. The procedure includes protocols for interviews in child abuse or neglect investigations; law enforcement interviews and interrogations; and interviews by the Department of Health in communicable disease investigations.

Summary of Engrossed First Substitute Bill: By August 1, 2018, school districts must adopt a policy and procedures for interviews and interrogations of students on school premises that at a minimum incorporates WSSDA's model and must also include the following procedures for law enforcement interviews and interrogations of students not involving child abuse or neglect investigations:

- if a student is under 12, parents, guardians, or designated adults must be notified and give permission before any interview or interrogation takes place unless the law enforcement officer has a warrant, court order, or indicates that exigent circumstances exist;
- if a student is 12 to 18, the principal or designee will make a reasonable effort to contact the parents or guardians prior to the interview or as soon as possible thereafter. If a parent or guardian cannot be contacted, the principal or designee will contact the designated adults noted on the student's emergency contact card for their consent. Parent contact is not required when the law enforcement officer has a warrant, court order, or indicates that exigent circumstances exist;
- if a student is 18 to 21, the principal or designee is not required to contact the parents or guardians before an interview or interrogation; and
- law enforcement officers must recognize the potential time delay for parents or guardians to be contacted and a reasonable time for parents or guardians to arrive at the school except when exigent circumstances apply.

School districts must notify law enforcement officers within their boundaries of the policy and procedures. Such notification may be by electronic means.

Exigent circumstances means circumstances that include, but are not limited to, serious threats to the health and safety of students and staff.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill gives schools more authority to carry out the model policy. The presence of a parent is required when a student is a suspect and being interrogated by law enforcement, not for child abuse or neglect investigations or when there are exigent circumstances.

CON: It is a reasonable goal to make sure parents know if their child is being interviewed or interrogated by law enforcement at school. Law enforcement officers may be at school to investigate a crime, respond to exigent circumstances, or develop relationships with students as a school resource officer. The bill should be clear that exigent circumstances also apply to students 12 and older.

OTHER: Students want support from a safe adult in any stressful conversation. Parents may modify what their child is trying to say to law enforcement. Students should be able to choose the adult they want with them during an interview or interrogation.

Persons Testifying: PRO: Senator Lisa Wellman, Prime Sponsor.

CON: Steve Strachan, Washington Association Sheriffs & Police Chiefs.

OTHER: Michel Plemmons, Washington Education Association.

Persons Signed In To Testify But Not Testifying: No one.