

Subject Right of a juvenile to consult with an attorney before interrogation

Authors Feist and others

Analyst Ben Johnson (ben.johnson@house.mn)

Date February 26, 2022

Overview

The constitution requires that law enforcement officers and other agents of the state inform a person of the right to consult with an attorney in certain situations. The requirement applies to questions that might result in admissions of guilt when those questions are asked in a setting where a reasonable person would not feel free to end the interview or leave. This is often referred to as providing *Miranda* warnings before a custodial interrogation. Unless an exception applies, a statement made without this warning is not admissible for use against the person in trial. A person can waive the consultation with an attorney. This bill establishes that, when a peace officer is questioning a juvenile, the officer must first make an attempt to notify the juvenile's parent or guardian. The officer is prohibited from questioning the juvenile until the juvenile consults with an attorney and the juvenile cannot waive the consultation. The bill further establishes that statements made by a juvenile cannot be offered as evidence against the juvenile if the statement is made: (1) before consultation with an attorney; and (2) to staff from a school, corrections department, or social services provider. The bill establishes exceptions for situations including emergencies and threats.

Summary

Section	Description
---------	-------------

1	Interrogation of juveniles.
---	------------------------------------

Subd. 1. Parental notification. Requires peace officers to make every reasonable effort to notify the parent or guardian of a juvenile before beginning a custodial interrogation of the juvenile. Requires the officer to make a signed report describing the efforts to notify a parent or guardian.

Subd. 2. Consultation with an attorney. Establishes that a juvenile must consult with an attorney before a peace officer can initiate a custodial interrogation of the juvenile. Prohibits waiving the consultation. Permits the juvenile to consult with an attorney identified by the juvenile or the juvenile's parent or guardian, or

Section	Description
---------	-------------

to consult with a public defender. Directs the officer to facilitate contact with a public defender as needed. Permits the consultation to be in person, by phone, or by other electronic means.

Subd. 3. Evidence. Establishes that any statement made by a juvenile in violation of this section is not admissible as evidence against the child in any criminal or civil proceeding.

Subd. 4. Exceptions. Provides that the requirements of the section do not apply when the officer has reasonable grounds to believe that there is an emergency, the information being sought is necessary to protect life or property, and the questioning is limited to gathering information to address the emergency.

2 **Statements of juveniles.**

Subd. 1. Definitions. Defines terms as used in this section, including “child,” “corrections staff member,” “school,” “school staff member,” and “social services provider.”

Subd. 2. Evidence. Prohibits entering a statement made by a juvenile into evidence against that juvenile if the statement is made before the juvenile consults with an attorney and the statement is made to school staff, corrections staff, or social service providers, or in certain school discipline and placement hearings. Permits the consultation to take place in person, by phone, or by other electronic means.

Subd. 3. Exception. Establishes an exception for statements made by a juvenile that are threats to school staff, corrections staff, or social service providers, or statements made while committing a criminal act.

Subd. 4. Mandatory reporters. Provides that nothing in the section prohibits reporting information as required by Minnesota’s “mandatory reporting” laws.



Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 155 State Office Building | St. Paul, MN 55155