
HOUSE BILL 1644

State of Washington 59th Legislature 2005 Regular Session

By Representatives B. Sullivan and Lovick

Read first time 02/01/2005. Referred to Committee on Juvenile
Justice & Family Law.

1 AN ACT Relating to interrogation and waiver; and amending RCW
2 13.40.140.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

6 (1) A juvenile shall be advised of his or her rights when appearing
7 before the court.

8 (2) A juvenile and his or her parent, guardian, or custodian shall
9 be advised by the court or its representative that the juvenile has a
10 right to be represented by counsel at all critical stages of the
11 proceedings. Unless waived, counsel shall be provided to a juvenile
12 who is financially unable to obtain counsel without causing substantial
13 hardship to himself or herself or the juvenile's family, in any
14 proceeding where the juvenile may be subject to transfer for criminal
15 prosecution, or in any proceeding where the juvenile may be in danger
16 of confinement. The ability to pay part of the cost of counsel does
17 not preclude assignment. In no case may a juvenile be deprived of
18 counsel because of a parent, guardian, or custodian refusing to pay

1 therefor. The juvenile shall be fully advised of his or her right to
2 an attorney and of the relevant services an attorney can provide.

3 (3) The right to counsel includes the right to the appointment of
4 experts necessary, and the experts shall be required pursuant to the
5 procedures and requirements established by the supreme court.

6 (4) Upon application of a party, the clerk of the court shall
7 issue, and the court on its own motion may issue, subpoenas requiring
8 attendance and testimony of witnesses and production of records,
9 documents, or other tangible objects at any hearing, or such subpoenas
10 may be issued by an attorney of record.

11 (5) All proceedings shall be transcribed verbatim by means which
12 will provide an accurate record.

13 (6) The general public and press shall be permitted to attend any
14 hearing unless the court, for good cause, orders a particular hearing
15 to be closed. The presumption shall be that all such hearings will be
16 open.

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

23 (8) A juvenile shall be accorded the same privilege against self-
24 incrimination as an adult. An extrajudicial statement which would be
25 constitutionally inadmissible in a criminal proceeding may not be
26 received in evidence at an adjudicatory hearing over objection.
27 Evidence illegally seized or obtained may not be received in evidence
28 over objection at an adjudicatory hearing to prove the allegations
29 against the juvenile if the evidence would be inadmissible in an adult
30 criminal proceeding. An extrajudicial admission or confession made by
31 the juvenile out of court is insufficient to support a finding that the
32 juvenile committed the acts alleged in the information unless evidence
33 of a corpus delicti is first independently established in the same
34 manner as required in an adult criminal proceeding.

35 (9) Waiver of any right which a juvenile has under this chapter
36 must be an express waiver intelligently made by the juvenile after the
37 juvenile has been fully informed of the right being waived.

1 (10) Whenever this chapter refers to waiver or objection by a
2 juvenile, the word juvenile shall be construed to refer to a juvenile
3 who is at least (~~twelve~~) sixteen years of age. If a juvenile is
4 under (~~twelve~~) sixteen years of age, the juvenile may not waive his
5 or her right without prior consultation with the juvenile's parent,
6 guardian, or custodian (~~shall give any waiver or offer any objection~~
7 ~~contemplated by this chapter~~), or an attorney.

--- END ---