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SENATE BILL 5288

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State of Washington                      59th Legislature                      2005 Regular Session

By Senators McAuliffe, Hargrove, Stevens, Regala, Thibaudeau and Carrell

Read first time 01/19/2005. Referred to Committee on Human Services & Corrections.

1            AN ACT Relating to juveniles in the custody of law enforcement  
2 officers; and adding a new section to chapter 13.40 RCW.

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

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

6            (1) When a law enforcement officer takes a juvenile into custody,  
7 the officer must immediately make reasonable attempts to notify a  
8 parent, guardian, or custodian that the juvenile is in custody, where  
9 the juvenile is being held, and of his or her right to consult with the  
10 juvenile.

11            (2) No statement, admission, or confession, written or oral, of a  
12 juvenile under the age of seventeen given as the result of custodial  
13 interrogation by law enforcement officials is admissible unless:

14            (a) A parent, guardian, or custodian was present during the  
15 statement;

16            (b) Prior to the statement the juvenile and his or her parent,  
17 guardian, or custodian were advised of the juvenile's rights, including  
18 the right to remain silent, that any statement may be used against him

1 or her, the right to an attorney, and the right to have an attorney  
2 appointed if financially unable to afford one;

3 (c) There was meaningful consultation between the juvenile and the  
4 parent, guardian, or custodian; and

5 (d) The parent, guardian, or custodian does not have any interests  
6 adverse to the juvenile.

7 (3) A parent may waive the juvenile's rights provided that the  
8 conditions of subsection (2)(b) through (d) are met.

9 (4) The juvenile, together with the parent, guardian, or custodian,  
10 may waive the requirement that the parent be present during  
11 interrogation if in writing and after both are advised of the  
12 juvenile's rights.

13 (5) A statement made in the presence of counsel representing the  
14 juvenile may be admissible even though no parent, guardian, or  
15 custodian was present.

16 (6) If a juvenile expresses fear or distress at the prospect of law  
17 enforcement notifying the juvenile's parent, guardian, or custodian  
18 that the juvenile is in custody, which leads the officer to believe  
19 there is a possibility that the juvenile is experiencing some type of  
20 abuse or neglect, the juvenile shall be given a reasonable opportunity  
21 to have another interested adult present. If no other interested adult  
22 is available after reasonable efforts are made to contact the adult at  
23 the juvenile's request, the juvenile shall be provided with an  
24 attorney. An adult may not act in lieu of a parent, guardian, or  
25 custodian under this section if the adult is either a codefendant or  
26 victim of the juvenile or otherwise has interests adverse to the  
27 juvenile.

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