

SENATE BILL REPORT

SB 5052

As Reported by Senate Committee On:
Human Services, February 12, 2025

Title: An act relating to modifying law enforcement ability to contact juvenile witnesses and victims not suspected of criminal involvement or activity.

Brief Description: Modifying law enforcement ability to contact juvenile witnesses and victims not suspected of criminal involvement or activity. [**Revised for 1st Substitute:** Clarifying law enforcement ability to contact juvenile witnesses and victims not suspected of criminal involvement or activity.]

Sponsors: Senators Salomon, Dhingra, Frame, Lias, Saldaña and Wellman.

Brief History:

Committee Activity: Human Services: 1/15/25, 2/12/25 [DPS, DNP].

Brief Summary of First Substitute Bill

- Requires law enforcement to provide the Youth Access to Counsel line to a youth detained based on probable cause of involvement in criminal activity.
- Creates an intent section that clarifies that juvenile victims and witnesses are able to be contacted by law enforcement without providing access to the Youth Access to Counsel Program requirements.
- Clarifies that nothing in this act should be construed to prevent the admissibility of otherwise lawfully obtained evidence.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5052 be substituted therefor, and the substitute bill do pass.

Signed by Senators Wilson, C., Chair; Frame, Vice Chair; Orwall.

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

Minority Report: Do not pass.

Signed by Senators Christian, Ranking Member; Warnick.

Staff: Will Trondsen (786-7552)

Background: In 2021, the Legislature passed ESHB 1140 that required youth be provided access to counsel prior to waiving any constitutional rights. Access to counsel must be provided to the youth if the officer conducts a custodial interrogation, detains a youth based on probable cause of involvement in a criminal activity, or requests that the youth provide consent to be searched or have their personal property searched.

This consultation is allowed to take place in person, telephone or video conference with the youth.

The Office of Public Defense has implemented the statutory requirements, by providing the consultations for youth. The Youth Access to Counsel Program is available 24-hours a day, 7-days a week. According to the Office of Public Defense, they completed 2327 consultations in 2022, and 2092 consultations in 2023. The age range of youth in need of a consultation was 9 to 17.

The Office of Public Defense states that Youth Access to Counsel attorneys:

- gather information from the officer calling into the line in order to provide advice to the youth and then speak with the youth in a confidential setting;
- provide the youth with information about their constitutional rights and how they apply to the youth's current situation to help them decide what to do; and
- engage in stated-interest representation, which means they give information and guidance about the law as applied to the youth's unique situation, but ultimately the youth chooses if they want to assert their rights or not.

Statements made by a youth are not admissible as evidence against that youth, unless the youth has been provided with access to counsel for a consultation and provides an express waiver knowingly, intelligently, and voluntarily waiving those rights after being fully informed of those rights; the statement is used for impeachment purposes against the youth; or the statement is made spontaneously.

Officers may question a youth without providing access to counsel if they believe the youth is the victim of trafficking, or law enforcement believes the information sought is necessary to protect an individual's life from imminent threat, and a delay to allow legal consultation would impede the protection of an individual's life from an imminent threat, provided the questioning is reasonably expected to obtain information necessary to protect an individual's life from an imminent threat.

Summary of Bill (First Substitute): Requires an officer to provide a juvenile the ability to consult with the Youth Access to Counsel line if the juvenile is detained based on probable

cause of a criminal activity.

Evidence otherwise obtained lawfully is not prevented from being admissible as evidence in a juvenile's prosecution.

An intent section is added to clarify that a law enforcement officer may contact a juvenile witness or juvenile victim not suspected of criminal involvement or activity.

EFFECT OF CHANGES MADE BY HUMAN SERVICES COMMITTEE (First Substitute):

- Requires law enforcement to provide the Youth Access to Counsel line to a youth detained based on probable cause of involvement in criminal activity.
- Creates an intent section that clarifies that juvenile victims and witnesses are able to be contacted by law enforcement without providing access to the Youth Access to Counsel Program requirements.
- Clarifies that nothing in this act should be construed to prevent the admissibility of otherwise lawfully obtained evidence.

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 is aimed at allowing victims and witnesses to share information with police officers so that they can use that information to prosecute a suspect. Intent is that evidence collected can be used against a suspect, it just cannot be used against the juvenile witness or juvenile victim who is giving that consent to search. The current law is not functioning the way it was hoped it would. Fully support the core values and the purpose of youth access to legal counsel. Proposed bill is a clarification to try to assist law enforcement when they are working with citizens and witnesses in order to help investigate and resolve crimes. If this bill had been enacted previously it would have helped our case greatly. This bill will facilitate a more timely gathering of crucial information that was missing in our case for other families that go through similar situations.

CON: Bill attempts to undermine current law, which was aimed at protecting children's rights. Children do not understand their rights, and when speaking to an officer, juvenile victims and juvenile witnesses are just as susceptible to not understanding their rights.

OTHER: In support of clarity on the current law, not sure that the language proposed solves the issue. As written there are concerns over unintended consequences with law. There are gaps in the current law that need to be addressed, but this does not quite get there yet. Negligible impact on current demands to the Youth Access to Counsel Line if implemented.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Laura Harmon; Leyla Adam; Rob Saka, Seattle City Council D1.

CON: Emily Gause, WACDL/WDA.

OTHER: James McMahan, WA Assoc Sheriffs & Police Chiefs; Russell Brown, WA Association of Prosecuting Attorneys; Elizabeth Mustin, Washington State Office of Public Defense; Jeff DeVere, DeVere Public Affairs.

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