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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2749

01/31/2022 Authored by Feist, Mariani, Frazier, Hollins, Agbaje and others
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; judiciary; establishing a right for juveniles to consult with
1.3 an attorney before an interrogation; requiring notification to parents; requiring
1.4 record keeping; excluding certain statements made by juveniles from being admitted
1.5 as evidence in delinquency or criminal proceedings; proposing coding for new
1.6 law in Minnesota Statutes, chapters 260B; 634.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. 260B.010 INTERROGATION OF JUVENILES.

1.9 Subdivision 1. Parental notification. (a) Prior to a custodial interrogation of a child, a
1.10 peace officer shall make every reasonable effort to notify the parent, guardian, or custodian
1.11 of the child that:

1.12 (1) the officer intends to initiate a custodial interrogation of the child; and

1.13 (2) the child will consult with an attorney before the interrogation.

1.14 (b) A peace officer may begin the custodial interrogation of a child if the officer is unable
1.15 to contact the parent, guardian, or custodian and additional attempts would unreasonably
1.16 delay the interrogation.

1.17 (c) The peace officer shall make a signed report of the attempts to contact a parent,
1.18 guardian, or custodian, setting forth:

1.19 (1) the time the child was stopped, detained, or taken into custody;

1.20 (2) the time at which the peace officer attempted to contact the child's parent, guardian,
1.21 or custodian and whether the attempt was successful;

2.1 (3) the method or methods used to attempt to contact the child's parent, guardian, or
2.2 custodian;

2.3 (4) whether the child's parent, guardian, or custodian asked to be present at the
2.4 interrogation; and

2.5 (5) the time at which the interrogation began.

2.6 Subd. 2. **Consultation with an attorney.** (a) Prior to a custodial interrogation of a child,
2.7 the child shall consult with an attorney. The consultation may not be waived and applies to
2.8 every child regardless of whether the child is subject to the jurisdiction of juvenile court or
2.9 district court.

2.10 (b) A peace officer shall allow the child to consult with an attorney identified by the
2.11 child or the child's parent, guardian, or custodian. If the child or the child's parent, guardian,
2.12 or custodian do not identify an attorney, the peace officer shall facilitate contact with the
2.13 public defender.

2.14 (c) The child's consultation with an attorney shall be confidential and may take place in
2.15 person or by telephone or other electronic means.

2.16 Subd. 3. **Evidence.** Any statement made by a child and any information obtained or
2.17 collected by a peace officer in violation of this section is not admissible as evidence in a
2.18 criminal or civil proceeding against the child.

2.19 Subd. 4. **Exceptions.** This section does not apply if:

2.20 (1) an officer has reasonable grounds to believe that there is an emergency at hand;

2.21 (2) the information being sought from the child is necessary for the protection of life or
2.22 property; and

2.23 (3) the interrogation is limited to gathering information necessary to prevent or limit the
2.24 emergency.

2.25 **EFFECTIVE DATE.** This section is effective August 1, 2022, and applies to
2.26 interrogations that take place on or after that date.

2.27 Sec. 2. **[634.048] STATEMENTS OF JUVENILES.**

2.28 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have meanings
2.29 given.

2.30 (b) "Child" has the meaning given in section 260B.007, subdivision 3.

2.31 (c) "Corrections staff member" means any of the following:

3.1 (1) a person employed by the Department of Corrections, contracted to provide services
3.2 in a facility operated by the Department of Corrections, or volunteering in a facility operated
3.3 by the Department of Corrections; or

3.4 (2) a person working in a facility licensed by the Department of Corrections pursuant
3.5 to section 241.021, contracted to provide services in such a facility, or volunteering in such
3.6 a facility.

3.7 (d) "Pupil" has the meaning given in section 121A.41, subdivision 7.

3.8 (e) "School" means a public school under section 120A.22, subdivision 4, or a nonpublic
3.9 school, excluding a home school, under section 120A.22, subdivision 4.

3.10 (f) "School staff member" means any of the following:

3.11 (1) a person employed by a school;

3.12 (2) a person performing work for a school whose contractual duties require the person
3.13 to be present on school grounds, transport pupils to and from school, or have regular contact
3.14 with pupils; or

3.15 (3) a person working as a school volunteer whose activities, duties, or responsibilities
3.16 involve having contact with pupils.

3.17 (g) "Social services provider" means a person working in a facility licensed by the
3.18 Department of Human Services to provide services to children or youth, contracted to
3.19 provide services in such a facility, or volunteering in such a facility.

3.20 (h) "Statement" means any oral assertion, written assertion, or nonverbal conduct intended
3.21 by the person as an assertion.

3.22 Subd. 2. **Evidence.** (a) Unless a child first consults with an attorney, statements by a
3.23 child are not admissible in any criminal or delinquency proceedings against the child to
3.24 prove the truth of the matter asserted if the statement was made:

3.25 (1) to a school staff member, corrections staff member, or social services provider while
3.26 that person was performing actions that arise out of and in the course of employment,
3.27 contractual duties, or role as a volunteer;

3.28 (2) in any conference, hearing, or other proceeding under the Pupil Fair Dismissal Act
3.29 in sections 121A.40 to 121A.56; or

3.30 (3) in any conference, hearing, or other proceeding under section 125A.091.

4.1 (b) The child's consultation with an attorney shall be confidential and may take place in
4.2 person or by telephone or other electronic means.

4.3 Subd. 3. **Exception.** Subdivision 2 does not apply to a threat to a school staff member,
4.4 corrections staff member, or social services provider or to a statement made by a child while
4.5 committing an act that would be a crime if committed by an adult.

4.6 Subd. 4. **Mandatory reporters.** Nothing in this section prohibits reporting information
4.7 as required under chapter 260E or section 626.557.

4.8 **EFFECTIVE DATE.** This section is effective August 1, 2022, and applies to statements
4.9 made on or after that date.