



Legislation Text

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AN ORDINANCE prohibiting the King County department of adult and juvenile detention from releasing a juvenile in its custody to law enforcement without a court order and from allowing custodial interrogation and the waiver of any Miranda rights until after a juvenile consults with an attorney; and adding a new chapter to K.C.C. Title 2.

STATEMENT OF FACTS:

1. The King County department of adult and juvenile detention operates a juvenile detention center at the King County youth services center in Seattle.
2. Juveniles may be detained at the juvenile detention center following an arrest for allegedly committing an offense or on a warrant; pending trial, as part of a sentence or as part of an order sanctioning the youth for violating the terms of probation.
3. Juvenile nonoffenders, including truants, at-risk youth, children in need of services or dependents, who violate a court order or are arrested on a warrant may also be detained at the detention center.
4. A juvenile in detention will attend school and have access to a wide range of programs and services with a focus on rehabilitation, not punishment, and ensuring community safety.
5. King County is committed to helping youth involved in juvenile court develop into healthy, productive adults.
6. A juvenile in detention does not have a parent or other guardian available to help ensure that the juvenile is treated fairly.

7. The department of adult and juvenile detention maintains the following visitation guidelines for juveniles in detention: visits may be up to thirty minutes long; each youth may have visitors up to three times per week; only parents and guardians and children under the age of eight may visit; and no food, clothing, money or personal items may be brought into the visiting area.
8. Notwithstanding its visitation guidelines, the department of adult and juvenile detention permits police officers and detectives to question juveniles in detention and obtain confessions from them without the juvenile's attorney being present.
9. The United States Supreme Court observed in *J.D.B. vs. North Carolina*, 131 S. Ct. 2394 (U.S. 2011): "By its very nature, custodial police interrogation entails 'inherently compelling pressures.' . . . Indeed, the pressure of custodial interrogation is so immense that it 'can induce a frighteningly high percentage of people to confess to crimes they never committed.' . . . That risk is all the more troubling-and recent studies suggest, all the more acute-when the subject of custodial interrogation is a juvenile" (citations omitted).
10. The United States Supreme Court observed in *J.D.B. vs. North Carolina*, 131 S. Ct. 2394 (U.S. 2011): "[C]hildren 'generally are less mature and responsible than adults' . . . they 'often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them' . . . they 'are more vulnerable or susceptible to . . . outside pressures' than adults. . . . Addressing the specific context of police interrogations, we have observed that events that 'would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens,'" 131 S. Ct. at 2403 (citations omitted; holding that a juvenile's age should be considered in the Miranda analysis of the admissibility of the juvenile's confession).
11. The United States Department of Justice has recently required that the St. Louis family court "revise its policies, procedures, and practices to prohibit police interrogations in the Juvenile Detention Center unless an attorney is present to represent the juvenile."

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Sections 2 and 3 of this ordinance should constitute a new chapter in K.C.C. Title 2.

NEW SECTION. SECTION 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Custodial interrogation" means any form of questioning by law enforcement of a juvenile in the custody of the department of adult and juvenile detention.

B. "Juvenile" means a person under eighteen years old.

C. "Law enforcement" means a representative of a local, state or federal law enforcement agency.

Department of adult and juvenile detention staff are not "law enforcement" for the purposes of this chapter.

NEW SECTION. SECTION 3.

A. The department of adult and juvenile detention is prohibited from allowing custodial interrogation and the waiver of any Miranda rights until after a juvenile consults with an attorney. Before a custodial interrogation, and before the waiver of any Miranda rights, a juvenile must consult with legal counsel in person, by telephone or by video conference. The consultation may not be waived.

B. Unless required by court order, the department of adult and juvenile detention must not release a juvenile in its custody to law enforcement for the purpose of interrogation.