Enrolled Copy H.B. 158

1	JUVENILE INTERROGATION AMENDMENTS			
2		2021 GENERAL SESSION	I	
3		STATE OF UTAH		
4		Chief Sponsor: Marsha Ju	dkins	
5	Senate Sponsor: Daniel W. Thatcher			
6	Cosponsors:	Dan N. Johnson	Andrew Stoddard	
7	Cheryl K. Acton	Rosemary T. Lesser	Raymond P. Ward	
8	Clare Collard	Michael J. Petersen		
9	Jennifer Dailey-Provost	Travis M. Seegmiller		
10	Craig Hall	V. Lowry Snow		
11				
12	LONG TITLE			
13	General Description:			
14	This bill addresses the interrogation of minors who are in custody for an offense.			
15	Highlighted Provisions:			
16	This bill:			
17	defines "friendly ac	dult";		
18	addresses the right	of a child to have a parent, a legal	guardian, or a friendly adult	
19	present when the child is in custody and subject to interrogation;			
20	 provides the requirements and exceptions to interrogating a child who is in custody 			
21	and subject to interrogation;			
22	► addresses the interrogation of a minor in a detention facility, a secure facility, or a			
23	correctional facility;			
24	 clarifies a minor's waiver to the right to counsel for court proceedings; and 			
25	 makes technical and conforming changes. 			
26	Money Appropriated in this Bill:			
27	None			

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Other Special Clauses:

29	None		
30	Utah Code Sections Affected:		
31	AMENDS:		
32	78B-22-204, as enacted by Laws of Utah 2019, Chapter 326		
33	ENACTS:		
34	78A-6-112.5 , Utah Code Annotated 1953		
35			
36	Be it enacted by the Legislature of the state of Utah:		
37	Section 1. Section 78A-6-112.5 is enacted to read:		
38	78A-6-112.5. Interview of a child Presence of a parent, legal guardian, or other		
39	adult Interview of minor in a facility.		
40	(1) As used in this section:		
41	(a) (i) "Friendly adult" means an adult:		
42	(A) that has an established relationship with the child to the extent that the adult can		
43	provide meaningful advice and concerned help to the child should the need arise; and		
44	(B) who is not hostile or adverse to the child's interest.		
45	(ii) "Friendly adult" does not include a parent or legal guardian of the child.		
46	(b) (i) "Interrogation" means any express questioning or any words or actions that are		
47	reasonably likely to elicit an incriminating response.		
48	(ii) "Interrogation" does not include words or actions normally attendant to arrest and		
49	custody.		
50	(2) If a child is in custody and subject to interrogation for an offense, the child has the		
51	right:		
52	(a) to have the child's parent or legal guardian present during an interrogation of the		
53	child; or		
54	(b) to have a friendly adult present during an interrogation of the child if:		
55	(i) there is reason to believe that the child's parent or legal guardian has abused or		
56	threatened the child; or		

H.B. 158

Enrolled Copy

Enrolled Copy H.B. 158

57	(ii) the child's parent's or legal guardian's interest is adverse to the child's interest,
58	including that the parent or legal guardian is a victim or a codefendant of the offense alleged to
59	have been committed by the child.
60	(3) If a child is in custody and subject to interrogation of an offense, the child may not
61	be interrogated unless:
62	(a) the child has been advised of the child's constitutional rights and the child's right to
63	have a parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b),
64	present during the interrogation;
65	(b) the child has waived the child's constitutional rights;
66	(c) except as provided in Subsection (4), the child's parent or legal guardian, or the
67	friendly adult if applicable under Subsection (2)(b), was present during the child's waiver under
68	Subsection (3)(b) and has given permission for the child to be interrogated; and
69	(d) if the child is in the custody of the Division of Child and Family Services and a
70	guardian ad litem has been appointed for the child, the child's guardian ad litem has given
71	consent to an interview of the child as described in Section 62A-4a-415.
72	(4) A child's parent or legal guardian, or a friendly adult if applicable under Subsection
73	(2)(b), is not required to be present during the child's waiver under Subsection (3) or to give
74	permission to the interrogation of the child if:
75	(a) the child is emancipated as described in Section 78A-6-805;
76	(b) the child has misrepresented the child's age as being 18 years old or older and a
77	peace officer has relied on that misrepresentation in good faith; or
78	(c) a peace officer or a law enforcement agency:
79	(i) has made reasonable efforts to contact the child's parent or legal guardian, or a
80	friendly adult if applicable under Subsection (2)(b); and
81	(ii) has been unable to make contact within one hour after the time in which the child is
82	in custody.
83	(5) (a) If a minor is admitted to a detention facility under Section 78A-6-112, or the
84	minor is committed to a secure facility or a correctional facility as defined in Section

H.B. 158 **Enrolled Copy** 85 62A-7-101, and is subject to interrogation for an offense, the minor may not be interrogated 86 unless: (i) the minor has had a meaningful opportunity to consult with the minor's appointed or 87 88 retained attorney; (ii) the minor waives the minor's constitutional rights after consultation with the 89 90 minor's appointed or retained attorney; and 91 (iii) the minor's appointed or retained attorney is present for the interrogation. 92 (b) Subsection (5)(a) does not apply to a juvenile probation officer, or a staff member 93 of a detention facility, unless the juvenile probation officer or the staff member is interrogating 94 the minor on behalf of a peace officer or a law enforcement agency. (6) A minor may only waive the minor's right to be represented by counsel at all stages 95 96 of court proceedings as described in Section 78B-22-204. 97 Section 2. Section **78B-22-204** is amended to read: 98 **78B-22-204.** Waiver by a minor. 99 A minor may not waive the right to [counsel before] be represented by counsel at all 100 stages of court proceedings unless: 101 (1) the minor has consulted with counsel; and

(2) the court is satisfied that in light of the minor's unique circumstances and attributes:

(a) the minor's waiver is knowing and voluntary; and

(b) the minor understands the consequences of the waiver.

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