
A BILL FOR AN ACT

RELATING TO FAMILY COURTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that children's brains
2 are still developing and that cognition and judgment continue to
3 form well into young adulthood. Courts have recognized that
4 children often lack the experience, perspective, or
5 understanding necessary to make legal decisions on their own
6 behalf.

7 The legislature notes that, under the United States
8 Constitution, an individual must be advised of their rights and
9 must make a knowing, intelligent, and voluntary waiver of their
10 right against self-incrimination prior to any custodial
11 interrogation by the state. However, the legislature finds
12 that, without consulting with an adult, children under sixteen
13 years of age cannot adequately understand the meaning of their
14 rights or the consequences of waiving their rights.

15 Accordingly, the purpose of this Act is to require that a
16 child consult with legal counsel or with a parent, guardian, or



1 legal custodian prior to any custodial interrogation and prior
2 to waiving any rights against self-incrimination.

3 SECTION 2. Chapter 571, Hawaii Revised Statutes, is
4 amended by adding a new section to part IV to be appropriately
5 designated and to read as follows:

6 "§571- Child custodial interrogation; prior adult
7 consultation required. (a) A child in custody shall consult
8 with legal counsel or with a parent, guardian, or legal
9 custodian prior to any custodial interrogation and prior to
10 waiving any rights against self-incrimination. This
11 consultation may take place in person, by telephone, or by video
12 conference but shall not be waived.

13 (b) The court, in determining the admissibility of
14 statements made by a child during or after custodial
15 interrogation, shall consider the effects of any violation of
16 subsection (a) on the voluntariness of the child's statement.

17 (c) Violation of this section shall not prevent the
18 admissibility of statements made by a child during or after
19 custodial interrogation; provided:

20 (1) The officer who questioned the child in violation of
21 this section reasonably believed that the information



1 was necessary to protect life or property from an
2 imminent threat; and

3 (2) The officer's questions were narrowly tailored to
4 solicit only the information necessary to address the
5 threat.

6 (d) For the purposes of this section, "child" means a
7 person less than sixteen years of age."


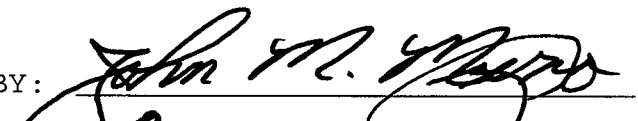



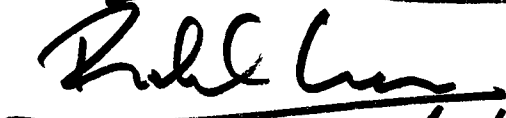
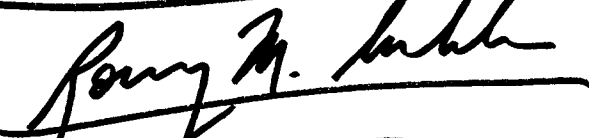
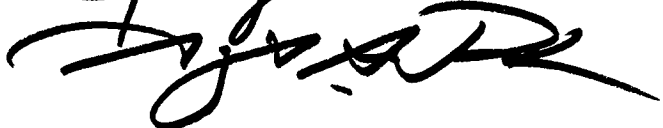
8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY:

JAN 21 2020



H.B. NO. 2238

Report Title:

Family Court; Child; Custodial Interrogation

Description:

Requires that a child consult with legal counsel or with a parent, guardian, or legal custodian prior to any custodial interrogation and prior to waiving any rights against self-incrimination. Provides that statements obtained in violation of this section may be admissible if the information sought was narrowly tailored and reasonably necessary to address an imminent threat.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

