



AB-2644 Custodial interrogation. (2021-2022)

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Assembly Bill No. 2644

CHAPTER 289

An act to amend Section 627 of, and to add Section 625.7 to, the Welfare and Institutions Code, relating to custodial interrogations.

[Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2644, Holden. Custodial interrogation.

Existing law authorizes a peace officer to take a minor into temporary custody when that officer has reasonable cause to believe that the minor has committed a crime or violated an order of the juvenile court. In these circumstances, existing law requires the peace officer to advise the minor that anything the minor says can be used against the minor, that the minor has the right to remain silent, that the minor has the right to have counsel present during any interrogation, and that the minor has the right to have counsel appointed if the minor is unable to afford counsel. Existing law requires that a youth 17 years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of the above-specified rights.

This bill would, commencing January 1, 2024, prohibit law enforcement officers from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics, as specified, during a custodial interrogation of a person 17 years of age or younger.

Upon a minor initially being detained, existing law requires an officer to take immediate steps to notify a minor's parent, guardian, or a responsible relative that the minor is in custody and the place where the minor is being held.

This bill would require a probation officer, no later than 2 hours after a minor has been taken into custody, to immediately notify the public defender or if there is no public defender, the indigent defense provider for the county, that the minor has been taken into custody. By imposing additional duties on local probation departments, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 625.7 is added to the Welfare and Institutions Code, to read:

625.7. (a) During a custodial interrogation of a person 17 years of age or younger relating to the commission of a misdemeanor or felony, a law enforcement officer shall not employ threats, physical harm, deception, or psychologically manipulative interrogation tactics.

(b) As used in this section, the following terms have the following meanings:

(1) "Deception," includes, but is not limited to, the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.

(2) "Psychologically manipulative interrogation tactics" include, but are not limited to the following:

(A) Maximization and minimization and other interrogation practices that rely on a presumption of guilt or deceit.

(i) Under this section, maximization includes techniques to scare or intimidate the person by repetitively asserting the person is guilty despite their denials, or exaggerating the magnitude of the charges or the strength of the evidence, including suggesting the existence of evidence that does not exist.

(ii) Under this section, minimization involves minimizing the moral seriousness of the offense, a tactic that falsely communicates that the conduct is justified, excusable, or accidental.

(B) Making direct or indirect promises of leniency, such as indicating the person will be released if the person cooperates.

(C) Employing the "false" or "forced" choice strategy, where the person is encouraged to select one of two options, both incriminatory, but one is characterized as morally or legally justified or excusable.

(c) Subdivision (a) does not apply to interrogations of a person 17 years of age or younger if both of the following criteria are met:

(1) The law enforcement officer who questioned the person reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat.

(2) The questions by law enforcement officers were limited to those questions that were reasonably necessary to obtain information related to the imminent threat.

(d) This section does not prevent an officer from using a lie detector test as long it is voluntary and was not obtained through the use of threats, physical harm, deception, or psychologically manipulative interrogation tactics as defined herein, and the officer does not suggest that the lie detector results are admissible in court or misrepresent the lie detector results to the person.

(e) This section shall become operative on July 1, 2024.

(f) For the purposes of this section, "custodial interrogation" shall have the same meaning as defined in Section 859.5 of the Penal Code.

SEC. 2. Section 627 of the Welfare and Institutions Code is amended to read:

627. (a) When an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement pursuant to this article, the officer shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where the minor is being held.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after the minor has been taken into custody, the minor shall be advised and has the right to make at least two telephone calls from the place where the minor is being held, one call completed to the minor's parent or guardian, a responsible relative, or their employer, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of their right to make such telephone calls is guilty of a misdemeanor.

(c) Immediately after being taken to a place of confinement pursuant to this article, and no later than two hours

after a minor has been taken into custody, the probation officer shall immediately notify the public defender or if there is no public defender, the indigent defense provider for the county, that the minor has been taken into custody.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.