

One Hundred Fourth Legislature - Second Session - 2016

Introducer's Statement of Intent

LB894

Chairperson: Senator Les Seiler

Committee: Judiciary

Date of Hearing: January 20, 2016

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

This bill makes several statutory changes relating to juveniles' rights to counsel in juvenile and adult court. With respect to juveniles' out of court rights to counsel, the bill would require law enforcement, when questioning juveniles regarding the right to counsel, to use 'developmentally appropriate' language with such juvenile. Additionally, should the juvenile request counsel and unless there exist exigent circumstances, such juvenile shall have access to counsel, either retained or appointed, 'without delay.' The bill also requires the juvenile courts to appoint counsel at the time the juvenile petition is filed and prior to the juvenile appearing before the court.

The bill further requires juvenile courts to only accept waivers of right to counsel in open court, on the record, and such waivers shall be confirmed in writing signed by the juvenile. The court shall ensure that the waiver is made intelligently, voluntarily, and understandingly and in determining these descriptions regarding the waiver, the court shall consider a variety of factors including the age, intelligence, and emotional stability of the child, among other factors. In no circumstance shall the court accept a waiver of counsel for a child under age 14; for a detention hearing; for any dispositional hearing requiring out of home placement; or a motion to transfer a case from juvenile court to adult court.

Further, the Supreme Court shall set standards for all attorneys practicing in juvenile court.

Principal Introducer: _____

Senator Patty Pansing Brooks