

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 2644

**Introduced by Assembly Member Holden
(Principal coauthor: Assembly Member Cristina Garcia)**

February 18, 2022

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2644, as introduced, Holden. Juveniles: 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.

Existing law provides that, except as otherwise provided by statute, all relevant evidence is admissible. The California Constitution provides for the Right to Truth-in-Evidence, which requires a $\frac{2}{3}$ vote of the Legislature to exclude any relevant evidence from any criminal proceeding, as specified.

This bill would require a statement made by a youth 25 years of age or younger to be presumed inadmissible as evidence against the youth in any criminal or juvenile court proceeding if, during an interrogation, a law enforcement officer used threats, physical harm, deception, or psychologically manipulative interrogation tactics, as specified.

Upon a minor initially being detained, existing law requires a probation 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 one hour 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.

Digest Key

Vote: 2/3 Appropriation: NO Fiscal Committee: YES Local Program: YES

Bill Text

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) (1) Any statement of a youth 25 years of age or younger made during an interrogation relating to the commission of a misdemeanor or a felony shall be presumed inadmissible as evidence against the youth in any criminal or juvenile court proceeding if, during the interrogation, a law enforcement officer used threats, physical harm, deception, or psychologically manipulative interrogation tactics.

(2) This presumption may be overcome if the prosecution proves by clear and convincing evidence that the statement was voluntary.

(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, material omissions, 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 methods that convey the interrogator's belief that the youth is guilty and that all denials will fail. Such tactics include making accusations, overriding objections, and citing evidence, real or manufactured, demonstrating that the youth's denials would be futile.

(ii) Under this section, minimization involves minimizing the moral seriousness of the offense, casting blame on the victim or on society, providing the youth with moral justification and face-saving excuses for having committed the crime in question, a tactic that falsely communicates that the conduct is justified.

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

(C) Threatening to subject the youth to a lie detector test that will demonstrate the falsity of the youth's statements.

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

(E) "Contaminating" by disclosing specific facts regarding the crime during the interrogation process, inducing the youth to adopt these facts.

(3) "Law enforcement officer," includes individuals working in collaboration with or acting as agents of law enforcement.

(c) This section does not prohibit the defense from using the interrogation as evidence in their case if otherwise permitted under the law.

(d) Subdivision (a) does not apply to the admissibility of statements of a youth 25 years of age or younger if both of the following criteria are met:

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

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

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, ~~he~~ *the probation 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 ~~he~~ *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 ~~he~~ *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 ~~he~~ *the minor* is being held, one call completed to ~~his~~ *the minor's* parent or guardian, a responsible relative, or ~~his~~ *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 ~~his~~ *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 one hour 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.