

Assuring Youth Access to Counsel

HB 1140

This bill protects the constitutional rights of young people by requiring law enforcement agents to connect youth to a public defender before requesting they waive their constitutional rights to remain silent, speak with an attorney, or to refuse consent to a search of their person, property, home, or vehicle. It is similar to measures passed in King County and San Francisco, and would safeguard the right to legal representation for young people throughout Washington.

Current Law Endangers the Rights of Youth

Currently, police officers are not required to affirmatively provide legal representation to young people before asking them to make decisions that impact their rights. Encounters with law enforcement agents and the criminal legal system can be stressful and confusing for anyone, particularly for young people. Youth often do not understand the consequences of waiving their legal rights and protections. Furthermore, power dynamics between children and adults, in addition to those between civilians and authority figures like law enforcement agents, could make it difficult for young people to give meaningful consent. Children facing these pressures are more likely to feel compelled to respond.

Research has shown that less than 10 percent of youth suspected of committing a crime assert their Miranda rights when stopped by the police. Without a full understanding of what waiving constitutional rights means and the impacts that it could have on their legal position, youth could make poor legal decisions that would negatively impact the rest of their lives. Washington should protect the rights and support the success of its youth by automatically providing legal representation to children before they waive their rights.

This Bill Advances Racial Justice

While all youth face worse legal and life-long outcomes without access to representation, the risks of not providing a lawyer fall disproportionately on Black youth. Black youth are disproportionately more likely to have encounters with police officers due to the historic over-policing of Black neighborhoods. In Washington, Black youth are 5.26 times more likely to be arrested than white

youth. This disparity means that youth of color are more likely to face a request to waive their rights than other youth in Washington. Without representation, the inherent racial inequity in policing also leads to a disproportionately greater possibility of negative legal outcomes for Black youth.

Furthermore, due to their own experiences and those of their friends, family and community members, many Black youth fear and distrust law enforcement. These young people need access to a lawyer to ensure that they do not waive their constitutional rights because they are too scared to assert them.

HB 1140 creates greater equity in our legal system by assuring that youth of color have access to legal representation before they make critical decisions about their rights.

Support Better Outcomes for Youth and Public Safety

The right to counsel is crucial for the well-being of Washington's young people. Criminal convictions can result in multiple life-long consequences for young people, which, depending on the type of conviction, can even result in loss of educational financial aid and housing and employment opportunities. Affirmatively providing legal counsel to children before they waive their rights will improve their legal outcomes and protect them from life-long collateral consequences.

Providing access to legal council will also improve public safety. Youth are more likely to comply with the legal system when they feel the system and its actors are not violating their constitutional protections. Further, it will not hamper the ability of officers to perform Terry stops or other interactions, such as welfare checks.

According to Chesa Boudin, District Attorney for San Francisco, their ordinance providing youth with access to counsel, "makes our community safer and has not diminished my office's ability to prosecute serious and violent crimes."

HB 1140 will protect the rights of young people, advance racial justice, improve public safety, and support better outcomes for Washington's youth.