## HOUSE BILL 464

IN THE HOUSE

January 30, 1979	Introduced and referred to Committee on Judiciary.
February 7, 1979	Committee recommend bill, as amended.
February 8, 1979	Printed and placed on members' desks.
February 9, 1979	Second reading, do pass.
February 10, 1979	Considered correctly engrossed.
February 12, 1979	Third reading, passed.
IN THE SENA	ATE
February 13, 1979	Introduced and referred to Committee on Judiciary.
March 3, 1979	Committee recommend bill, not concurred.
IN THE HOUS	SE
March 5, 1979	Returned from Senate, not concurred.

LC 1152/01

INTRODUCED BY 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION -4 5 41-5-303+ MCA+ TO REMOVE THE REQUIREMENT THAT A YOUTH MAY WAIVE HIS RIGHTS ONLY WITH THE ADVICE OF COUNSEL WHEN THE 6 7 YOUTH IS OVER THE AGE OF 12 AND THE YOUTH AND HIS PARENTS DO 8 NOT AGREE ABOUT MAKING A WAIVER." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 41-5-303, MCA, is amended to read: 12 "41-5-303. Rights of youth upon apprehension. When a youth alleged to be a delinquent youth or a youth in need of 13 14 supervision is taken into custody, the following 15 requirements must be met: (1) The youth shall be immediately and effectively 16 advised of his constitutional rights and his rights under 17 15 this chapter. (2) The-youth-may-weive-such-rights Ine\_rights of the 19 youth may be waived, with or without the advice of counsel. 20 21 under the following situations: (a) when the youth is under the age of 12 years, the 22 23 parents of the youth may make an effective waiver; 24 (b) when the youth is over the age of 12 years and the 25 youth and his parents agree: they may make an effective

1 waiver; and

- 2 (c) when the youth is over the age of 12 years and the
- 3 youth and his parents do not agree, the youth may make an
- 4 effective waiver-only-with-odvice-of-counsel."

-End-

-2- HB 464 INTRODUCED BILL

## 46th Legislature

## HB 0464/02

## Approved by Committee on Judiciary

1	HOUSE BILL NO. 464
2	INTRODUCED BY KEYSER
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5	41-5-303, MCA, TO REMOVE <u>Change</u> the requirement that a youth
6	MAY WAIVE HIS RIGHTS ONLY WITH THE ADVICE OF COUNSEL WHEN
7	THE YOUTH IS OVER THE AGE OF 12 AND THE YOUTH AND HIS
8	PARENTS DO NOT AGREE ABOUT MAKING A WAIVER."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 41-5-303, MCA, is amended to read:
12	*41-5-303。 Rights of youth upon apprehension。 When a
13	youth alleged to be a delinquent youth or a youth in need of
14	supervision is taken into custody, the following
15	requirements must be met:
16	(1) The youth shall be immediately and effectively
17	advised of his constitutional rights and his rights under
18	this chapter.
19	(2) The-youth-may-waive-such-rights <u>The rights-ef-the</u>
20	<u>youthmay be weived: with corwithout the advice of counsely</u>
21	<u>WAIVE_HIS_BIGHTS</u> under the following situations:
22	(a) when the youth is under the age of 12 years, the
23	parents of the youth may make an effective waiver <u>WITH_OR</u>
24	WITHOUT_IHE_ADVICE_DE_COUNSEL;
25	(b) when the youth is over the age of 12 years and the

ĩ	youth and his parents agree, they may make an effective
Z	waiver <u>W11H_OR_W11HQUI_IHE_ADVICE_OF_COUNSEL;</u> and
3	(c) when the youth is over the age of 12 years and the
4	youth and his parents do not agree, the youth may make an
5	effective waiver-onlywithodviceofcounsel <u>ONLY_WIIH</u>
6	ADVICE_DE_COUNSEL.
7	131_NOIHING_IN_IUIS_SECTION_SHOULD_BE_CONSTRUED_IO
8	BEQUIRE_IHE_PRESENCE_OF_COUNSEL_EQR_ANY_PURPOSEOTHERTHAN
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9 . WALVER\_DE\_CONSTITUTIONAL\_RIGHTS+"

-End-

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HOUSE BILL NO. 464 1 2 INTRODUCED BY KEYSER 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMENO SECTION 41-5-303, MCA, TO REMOVE CHANGE THE REQUIREMENT THAT A YOUTH 5 MAY WAIVE HIS RIGHTS ONLY WITH THE ADVICE OF COUNSEL WHEN 6 7 THE YOUTH IS OVER THE AGE OF 12 AND THE YOUTH AND HIS PARENTS DO NOT AGREE ABOUT MAKING A WAIVER." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: 10 Section 1. Section 41-5-303, MCA. is amended to read: 11 #41-5-303. Rights of youth upon apprehension. When a 12 youth alleged to be a delinquent youth or a youth in need of 13 supervision is taken into custody, the following 14 15 requirements must be met: (1) The youth shall be immediately and effectively 16 17 advised of his constitutional rights and his rights under 18 this chapter. (2) The-youth-may-woive-such-rights The rights-of-the 19 20 youth may be waived with or without the advice of countait **WAIVE HIS BIGHTS** under the following situations: 21 22 (a) when the youth is under the age of 12 years, the 23 parents of the youth may make an effective waiver WITH OR 24 WITHOUT THE ADVICE OF COUNSEL;

25 (b) when the youth is over the age of 12 years and the

1 youth and his parents agree, they may make an effective waiver WITH\_DR\_WITHOUT\_THE\_ADVICE\_OF\_COUNSEL; and 2 3 (c) when the youth is over the age of 12 years and the 4 youth and his parents do not agree, the youth may make an 5 affactive waiver-on#y--with--advice--of--course# ONLY\_ HITH 6 ADVICE DE COUNSEL. 7 131 NOTHING IN THIS SECTION SHOULD BE CONSTRUED TO B REQUIRE THE PRESENCE OF COUNSEL FOR ANY PURPOSE OF THAN 9 . WAIVER OF CONSTITUTIONAL RIGHTS."

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