

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 SENATE

February 13, 1979	Introduced and referred to Committee on Judiciary.
March 3, 1979	Committee recommend bill, not concurred.

IN THE HOUSE

March 5, 1979	Returned from Senate, not concurred.
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1 HOUSE BILL NO. 464
 2 INTRODUCED BY Thompson
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 41-5-303, MCA, TO REMOVE THE REQUIREMENT THAT A YOUTH MAY
 6 WAIVE HIS RIGHTS ONLY WITH THE ADVICE OF COUNSEL WHEN THE
 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
 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. The rights of the~~
 20 ~~youth may be waived, with or without the advice of counsel,~~
 21 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;

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 advice of counsel.~~"

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 464
INTRODUCED BY KEYSER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
41-5-303, MCA, TO REMOVE ~~CHANGE~~ THE REQUIREMENT THAT A YOUTH
MAY WAIVE HIS RIGHTS ONLY WITH THE ADVICE OF COUNSEL WHEN
THE YOUTH IS OVER THE AGE OF 12 AND THE YOUTH AND HIS
PARENTS DO NOT AGREE ABOUT MAKING A WAIVER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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youth alleged to be a delinquent youth or a youth in need of
supervision is taken into custody, the following
requirements must be met:

(1) The youth shall be immediately and effectively
advised of his constitutional rights and his rights under
this chapter.

~~(2) The youth may waive such rights. The rights of the
youth may be waived with or without the advice of counsel.~~
WAIVE HIS RIGHTS under the following situations:

(a) when the youth is under the age of 12 years, the
parents of the youth may make an effective waiver WITH OR
WITHOUT THE ADVICE OF COUNSEL;

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

youth and his parents agree, they may make an effective
waiver WITH OR WITHOUT THE ADVICE OF COUNSEL; and

(c) when the youth is over the age of 12 years and the
youth and his parents do not agree, the youth may make an
effective waiver ~~only with advice of counsel~~ ONLY WITH
ADVICE OF COUNSEL.

~~(3) NOTHING IN THIS SECTION SHOULD BE CONSTRUED TO
REQUIRE THE PRESENCE OF COUNSEL FOR ANY PURPOSE OTHER THAN
WAIVER OF CONSTITUTIONAL RIGHTS."~~

-End-

HOUSE BILL NO. 464
INTRODUCED BY KEYSER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 41-5-303, MCA, TO REMOVE ~~CHANGE~~ THE REQUIREMENT THAT A YOUTH MAY WAIVE HIS RIGHTS ONLY WITH THE ADVICE OF COUNSEL WHEN THE YOUTH IS OVER THE AGE OF 12 AND THE YOUTH AND HIS PARENTS DO NOT AGREE ABOUT MAKING A WAIVER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-5-303, MCA, is amended to read:

"41-5-303. Rights of youth upon apprehension. When a youth alleged to be a delinquent youth or a youth in need of supervision is taken into custody, the following requirements must be met:

(1) The youth shall be immediately and effectively advised of his constitutional rights and his rights under this chapter.

~~(2) The youth may waive such rights. The rights of the youth may be waived with or without the advice of counsel.~~
WAIVE HIS RIGHTS under the following situations:

(a) when the youth is under the age of 12 years, the parents of the youth may make an effective waiver WITH OR WITHOUT THE ADVICE OF COUNSEL;

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

youth and his parents agree, they may make an effective waiver WITH OR WITHOUT THE ADVICE OF COUNSEL; and

(c) when the youth is over the age of 12 years and the youth and his parents do not agree, the youth may make an effective waiver ~~only with advice of counsel~~ ONLY WITH ADVICE OF COUNSEL.

~~(3) NOTHING IN THIS SECTION SHOULD BE CONSTRUED TO REQUIRE THE PRESENCE OF COUNSEL FOR ANY PURPOSE OTHER THAN WAIVER OF CONSTITUTIONAL RIGHTS."~~

-End-