

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3204

BY DELEGATES STEELE, GRAVES, SMITH AND NESTOR

[Introduced March 16, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto a new section
 2 designated §62-1A-12; relating to custodial interrogation of a child; requiring the child have
 3 contact with legal counsel by certain means; requiring the child have contact with a parent,
 4 guardian, legal custodian, or other legally recognized equivalent by certain means;
 5 permitting a law-enforcement officer to ask questions reasonably believed to be necessary
 6 to protect life or property without requiring contact with counsel, parents, guardians, or
 7 other recognized persons; and requiring questions of a child be limited to obtaining such
 8 information reasonably believed to be necessary to protect life or property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. SEARCH AND SEIZURE.

§62-1A-12. Custodial interrogation of a child; consultation with legal counsel; admissibility of statements.

1 (a) For purposes of this section, “custodial interrogation” means any interview conducted
 2 by a law-enforcement officer in such circumstances that would lead a reasonable person to
 3 consider himself to be in custody associated with arrest and during which the law-enforcement
 4 officer takes actions or asks questions that are reasonably likely to elicit response from the person
 5 that could incriminate him.

6 (b) Prior to the custodial interrogation of a child, the child shall:

7 (1) Consult with legal counsel in person, by telephone, or by video conference, and;

8 (2) Have contact with his or her parent, guardian, legal custodian, or other person standing
 9 in loco parentis in person, by telephone, or by video conference.

10 (c) Any statement made by a child during or after a custodial interrogation that does not
 11 comply with the provisions of this section shall be inadmissible as evidence unless:

12 (1) The law-enforcement officer who conducted the custodial interrogation of the child
 13 reasonably believed the information sought was necessary to protect life or property from an
 14 imminent threat, and;

- 15 (2) The law-enforcement officer's questions were limited to those that were reasonably
16 necessary to obtain such information.

NOTE: The purpose of this bill is to establish limitation on law-enforcement officers conducting custodial interrogations of a child with certain exceptions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.