

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 590, Page 27, Section 198.070, Line 17

2 of said page, by inserting after all of said line the following:

3 "211.059. 1. When a child is taken into custody by a
4 juvenile officer or law enforcement official, with or without a
5 warrant for an offense in violation of the juvenile code or the
6 general law which would place the child under the jurisdiction of
7 the juvenile court pursuant to subdivision (2) or (3) of
8 subsection 1 of section 211.031, the child shall be advised prior
9 to questioning:

10 (1) That he has the right to remain silent; and

11 (2) That any statement he does make to anyone can be and
12 may be used against him; and

13 (3) That he has a right to have a parent, guardian or
14 custodian present during questioning; and

15 (4) That he has a right to consult with an attorney and
16 that one will be appointed and paid for him if he cannot afford
17 one.

18 2. If the child indicates in any manner and at any stage of
19 questioning pursuant to this section that he does not wish to be
20 questioned further, the officer shall cease questioning.

21 3. When a child is taken into custody by a juvenile officer

1 or law enforcement official which places the child under the
2 jurisdiction of the juvenile court under subdivision (1) of
3 subsection 1 of section 211.031, including any interactions with
4 the child by the children's division, the following shall apply:

5 (1) If the child indicates in any manner at any stage
6 during questioning involving the alleged abuse and neglect that
7 the child does not wish to be questioned any further on the
8 allegations, or that the child wishes to have his or her parent,
9 legal guardian, or custodian if such parent, guardian, or
10 custodian is not the alleged perpetrator, or his or her attorney
11 present during questioning as to the alleged abuse, the
12 questioning of the child shall cease on the alleged abuse and
13 neglect until such a time that the child does not object to
14 talking about the alleged abuse and neglect unless the
15 interviewer has reason to believe that the parent, legal
16 guardian, or custodian is acting to protect the alleged
17 perpetrator. Nothing in this subdivision shall be construed to
18 prevent the asking of any questions necessary for the care,
19 treatment, or placement of a child; and

20 (2) Notwithstanding any prohibition of hearsay evidence,
21 all video or audio recordings of any meetings, interviews, or
22 interrogations of a child shall be presumed admissible as
23 evidence in any court or administrative proceeding involving the
24 child if the following conditions are met:

25 (a) Such meetings, interviews, or interrogations of the
26 child are conducted by the state prior to or after the child is
27 taken into the custody of the state; and

28 (b) Such video or audio recordings were made prior to the
29 adjudication hearing in the case. Nothing in this paragraph

1 shall be construed to prohibit the videotaping or audiotaping of
2 any such meetings, interviews, or interrogations of a child after
3 the adjudication hearing; and

4 (3) Only upon a showing by clear and convincing evidence
5 that such a video or audio recording lacks sufficient indicia of
6 reliability shall such recording be inadmissible.

7
8 The provisions of this subsection shall not apply to statements
9 admissible under section 491.075 or 492.304 in criminal
10 proceedings.

11 4. For the purposes of this section, any court recognized
12 exception from the required warnings given by law enforcement
13 concerning constitutional rights to an adult prior to custodial
14 interrogation shall also apply to a child taken into custody.
15 Any evidence obtained in violation of this section shall be
16 treated by the courts in the same manner as evidence collected in
17 violation of an adult's right to be given warnings concerning
18 constitutional rights prior to custodial interrogation."; and

19 Further amend the title and enacting clause accordingly.