

AMENDMENTS TO LB307

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 43-3102, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 43-3102 (1) In any court proceeding, any waiver of the right to
6 counsel by a juvenile shall be made in open court, shall be recorded, and
7 shall be confirmed in a writing signed by the juvenile.

8 (2) A court shall not accept a juvenile's waiver of the right to
9 counsel unless the waiver satisfies subsection (1) of this section and is
10 an affirmative waiver that is made intelligently, voluntarily, and
11 understandingly. In determining whether such waiver was made
12 intelligently, voluntarily, and understandingly, the court shall
13 consider, among other things: (a) The age, intelligence, and education of
14 the juvenile, (b) the juvenile's emotional stability, and (c) the
15 complexity of the proceedings.

16 (3) If the court accepts the juvenile's waiver of counsel, the court
17 order and any probation order shall affirmatively show that the juvenile
18 cannot be removed from the home or detained outside the home by the court
19 on the adjudicated petition. This shall apply:

20 (a) To any period between adjudication and disposition;

21 (b) To any period of probation; or

22 (c) In response to an alleged violation of probation on the
23 adjudicated petition.

24 (4) On or before July 1, 2022, the Supreme Court shall provide, by
25 court rule, a process to ensure that juveniles are provided the
26 opportunity to consult with counsel to assist the juvenile in making the
27 decision to waive counsel.

1 (5) ~~(3)~~ The court shall ensure that a juvenile represented by an
2 attorney consults with his or her attorney before any waiver of counsel.

3 (6) ~~(4)~~ No parent, guardian, custodian, or other person may waive
4 the juvenile's right to counsel.

5 (7) ~~(5)~~ A juvenile's right to be represented by counsel may not be
6 waived in the following circumstances:

7 (a) If the juvenile is under the age of fourteen;

8 (b) For a detention hearing;

9 (c) For any dispositional hearing where out-of-home placement is
10 sought; ~~or~~

11 (d) If there is a motion to transfer the juvenile from juvenile
12 court to county court or district court; or ~~-~~

13 (e) For any adjudication on a juvenile petition that may be used
14 later to enhance or sustain a criminal conviction in an adult proceeding.

15 Sec. 2. Original section 43-3102, Reissue Revised Statutes of
16 Nebraska, is repealed.