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City Attorney's Office

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OAKLAND

2017 JUN -1 PM 6:01

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER DAN KALB

RESOLUTION IN SUPPORT OF SENATE BILL 395, BY STATE SENATORS RICARDO LARA AND HOLLY MITCHELL, WHICH WOULD REQUIRE ANY YOUTH UNDER THE AGE OF EIGHTEEN TO CONSULT WITH LEGAL COUNSEL PRIOR TO A POLICE CUSTODIAL INTERROGATION OR WAIVING RIGHTS TO REMAIN SILENT, TO HAVE COUNSEL PRESENT DURING INTERROGATION OR TO HAVE LEGAL COUNSEL APPOINTED IF HE/SHE CANNOT AFFORD COUNSEL

WHEREAS, existing law requires authorizes peace officers to take a minor into temporary custody when that officer has reasonable cause to believe that the minor has committed a crime or violated an order of the juvenile court; and

WHEREAS, existing law requires peace officers to advise minors taken into custody of their rights – i.e., that anything he or she says can be used against him or her, that he or she has the right to remain silent, that he or she has a right to have counsel present during any interrogation, and that he or she has a right to have counsel appointed if he or she is unable to afford counsel; and

WHEREAS, recent advances in cognitive science research have shown that the capacity of youth to grasp legal rights is less than that of an adult, and this is especially true for very young, developmentally disabled, or cognitively delayed children, and for those with mental health problems; and

WHEREAS, our society recognizes that children are especially vulnerable in legal situations, which is why youth cannot buy alcohol and cigarettes or enter into legal contracts, yet some our state’s laws do not recognize their limited capacity to understand their Miranda rights; and

WHEREAS, the United States Supreme Court recognizes that youth generally are less mature than adults, lacking the experience, perspective and judgment to recognize and avoid choices that could be detrimental to them; and

WHEREAS, SB 395 is supported by the National Center for Youth Law, Alliance for Boys and Men of Color, California Public Defenders Association,

ACLU of California, Children's Defense Fund, Ella Baker Center for Human Rights among others; and

WHEREAS, that California Senate Bill 395 will require youth under 18 years of age to consult with legal counsel prior to waiving their rights to remain silent, to be represented by legal counsel and to have legal counsel appointed if they cannot afford counsel; and, thus, by preserving a youth's constitutional rights by ensuring that our youth understand their rights, this bill will help to ensure that the outcome of interrogations is just and lawful, and create greater trust, accountability and due process for all; now, therefore, be it

RESOLVED: That the Oakland City Council supports Senate Bill 395, (Senators Lara and Mitchell), which would require any youth under the age of eighteen to consult with legal counsel prior to a police custodial interrogation or any waiving any of their rights; and be it

FURTHER RESOLVED: That the City Administrator is directed to forward a copy of this enacted Resolution to state legislative elected officials representing Oakland, the authors of this legislation, Governor Jerry Brown, and to the lobbyist for the City of Oakland to advocate for passage of SB 395.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES –

NOES –

ABSENT –

ABSTENTION –

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the
City of Oakland, California