



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3959/1
GMM:ahe

2015 ASSEMBLY BILL 985

March 10, 2016 – Introduced by Representatives GOYKE, BOWEN, BARNES, BROSTOFF, KESSLER, BERCEAU, JOHNSON, SPREITZER, CONSIDINE and ZAMARRIPA, cosponsored by Senators C. LARSON and L. TAYLOR. Referred to Committee on Criminal Justice and Public Safety.

1 **AN ACT** *to renumber and amend* 938.31 (3) (b); *to amend* 938.195 (title),
2 938.195 (2) (title) and 938.195 (3) (title); and *to create* 938.195 (1m) and 938.31
3 (3) (b) 1. of the statutes; **relating to:** notification of a juvenile’s parent,
4 guardian, legal custodian, or Indian custodian prior to a custodial interrogation
5 of the juvenile.

Analysis by the Legislative Reference Bureau

This bill requires a law enforcement agency, prior to conducting a custodial interrogation of a juvenile, to provide notice of its intent to conduct the interrogation to the juvenile’s parent, guardian, legal custodian, or Indian custodian and prohibits a law enforcement officer or agent of a law enforcement agency from commencing a custodial interrogation of a juvenile until the juvenile’s parent, guardian, legal custodian, or Indian custodian has received that notice. The bill also provides that a statement made by the juvenile during a custodial interrogation is not admissible in evidence against the juvenile in any court proceeding alleging the juvenile to be delinquent unless the juvenile’s parent, guardian, legal custodian, or Indian custodian received prior notice of the law enforcement agency’s intent to conduct the custodial interrogation.

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For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 938.195 (title) of the statutes is amended to read:

2 **938.195** (title) ~~Recording—custodial~~ **Custodial interrogations;**
3 **notification; recording.**

4 **SECTION 2.** 938.195 (1m) of the statutes is created to read:

5 **938.195 (1m)** NOTIFICATION OF PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN
6 CUSTODIAN. Prior to conducting a custodial interrogation of a juvenile, the law
7 enforcement agency that intends to conduct the interrogation shall provide notice of
8 that intent to the juvenile's parent, guardian, legal custodian, or Indian custodian.
9 No law enforcement officer or agent of a law enforcement agency may commence a
10 custodial interrogation of a juvenile until the juvenile's parent, guardian, legal
11 custodian, or Indian custodian has received that notice.

12 **SECTION 3.** 938.195 (2) (title) of the statutes is amended to read:

13 **938.195 (2)** (title) ~~WHEN RECORDING~~ REQUIRED.

14 **SECTION 4.** 938.195 (3) (title) of the statutes is amended to read:

15 **938.195 (3)** (title) ~~NOTICE OF RECORDING~~ NOT REQUIRE D.

16 **SECTION 5.** 938.31 (3) (b) of the statutes is renumbered 938.31 (3) (b) (intro.)
17 and amended to read:

18 **938.31 (3) (b) (intro.)** Except as provided under par. (c), a statement made by
19 the juvenile during a custodial interrogation is not admissible in evidence against
20 the juvenile in any court proceeding alleging the juvenile to be delinquent unless an
21 all of the following apply:

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1 2. An audio or audio and visual recording of the interrogation was made as
2 required under s. 938.195 (2) and is available.

3 **SECTION 6.** 938.31 (3) (b) 1. of the statutes is created to read:

4 938.31 **(3)** (b) 1. Prior to the custodial interrogation, the juvenile's parent,
5 guardian, legal custodian, or Indian custodian received notice of the law enforcement
6 agency's intent to conduct the custodial interrogation as required under s. 938.195
7 (1m).

8 **SECTION 7. Initial applicability.**

9 (1) NOTIFICATION OF CUSTODIAL INTERROGATIONS OF JUVENILES. This act first
10 applies to a custodial interrogation, as defined in section 968.073 (1) (a) of the
11 statutes, of a juvenile conducted on the effective date of this subsection.

12

(END)