

Amendment to HB 1465-FN

1 Amend RSA 169-B:12, I-a as inserted by section 1 of the bill by replacing it with the following:

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3 I-a. When an attorney is appointed as counsel for a child, representation shall include
4 counsel and investigative, expert, and other services, including process to compel the attendance of
5 witnesses, as may be necessary to protect the rights of the child. ***Such appointment shall remain***
6 ***in effect until the court no longer has jurisdiction over the child pursuant to this chapter.***
7 ***Representation shall include participation by counsel in other proceedings when such***
8 ***proceedings are substantively related to the child's delinquency proceedings and counsel***
9 ***determines that participation is reasonably necessary to provide effective and competent***
10 ***representation to the child in the delinquency proceeding. Such participation may include***
11 ***attendance by counsel at interviews, meetings and formal proceedings for the purpose of***
12 ***protecting the child's rights through advice to the child, observation of the presentation of***
13 ***evidence, and similar actions which are reasonably necessary to protect the child's rights.***
14

15 Amend the bill by replacing section 2 with the following:
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17 2 New Section; Delinquent Children; Use of Statement or Confession From a Minor. Amend
18 RSA 169-B by inserting after section 12-a the following new section:

19 169-B:12-b Use of Statement or Confession From a Minor.

20 I. A written or oral statement from a person who was a minor at the time the statement was
21 made shall not be used against that person at any judicial proceeding unless the child was
22 represented by counsel at the time the statement was made and had adequate time to consult with
23 such counsel prior to making the statement. The provisions of this section shall apply to statements
24 made to or in the presence of law enforcement officials acting in their official capacity and
25 statements made to individuals working in conjunction with law enforcement officials, where the
26 minor is in custody or a reasonable person in the position of the minor would believe that he or she
27 was compelled to respond to questioning. For the purpose of this paragraph, a minor is in custody if
28 he or she is under arrest or has had his or her freedom of movement curtailed to the degree
29 associated with formal arrest.

30 II. In evaluating whether a reasonable person in the position of the minor would believe that
31 he or she was compelled to respond or that he or she was not free to leave, the court shall consider

1 the particular vulnerability of children to the inherently coercive nature of police questioning and
2 make findings evaluating the following factors:

3 (a) The child's age and maturity.

4 (b) The duration and location of the contact between the child and law enforcement
5 official.

6 (c) The existence of an emotional, behavioral, developmental, intellectual, or
7 communication disability.

8 (d) The presence of the child's parents and the supportive or adversarial nature of the
9 relationship between the child and his or her parents.

10 III. A law enforcement agency may petition the court to appoint counsel for a minor that the
11 agency intends to question. Upon receipt of such petition, the court shall follow the procedures
12 under RSA 169-B:12, and if appointment is made, promptly notify the minor and appointed counsel.