

2021 -- S 0536

LC001019

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO DELINQUENT AND DEPENDENT CHILDREN -- PROCEEDINGS IN
FAMILY COURT

Introduced By: Senators Anderson, Calkin, DiMario, Bell, Quezada, Miller, McCaffrey,
Cano, and Mack

Date Introduced: March 04, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 14-1 of the General Laws entitled "Proceedings in Family Court" is
2 hereby amended by adding thereto the following section:

3 **14-1-30.3. Use of statements made in custodial interrogation.**

4 (a) No statements or admissions of a juvenile made as a result of the custodial interrogation
5 of such juvenile, by a law enforcement official, concerning delinquent or criminal acts alleged to
6 have been committed by the juvenile, shall be admissible in evidence against such juvenile, unless:

7 (1) The juvenile was advised of their right to have a parent or legal guardian present during
8 questioning;

9 (2) The parent or legal guardian was present during the questioning;

10 (3) The juvenile and parent or legal guardian were advised prior to questioning, of the
11 following:

12 (i) The juvenile's right to remain silent;

13 (ii) That statements made could be used against them in a court of law;

14 (iii) That they have the right to have an attorney be present during any questioning;

15 (iv) That if they cannot afford an attorney, one would be appointed to represent the juvenile
16 at no cost;

17 (v) A request for an attorney can be made by the juvenile or the parent or legal guardian at
18 any time during questioning.

1 (b) Notwithstanding the provisions of subsection (a) of this section, statements or
2 admissions of a juvenile made in the absence of their parent or legal guardian may be admissible
3 if:

4 (1) A private attorney or public defender was present at such interrogation; or

5 (2) The court finds that, under the totality of the circumstances, the juvenile made a
6 knowing, intelligent and voluntary waiver of their constitutional rights; and the juvenile
7 misrepresented their age as being eighteen (18) years of age or older and the law enforcement
8 official acted in good faith reliance on such representation in conducting the interrogation; or

9 (3) The juvenile is emancipated from their parent or legal guardian.

10 (c) For purposes of this section, a juvenile shall be deemed emancipated if they are over
11 the age of fifteen (15) years of age and under the age of eighteen (18) years of age, and have the
12 real or apparent assent of their parents, has demonstrated independence in matters of care, custody
13 and earnings. The term emancipated may include, but not be limited to, a showing that the juvenile
14 is married, in the military, or is otherwise self-supporting.

15 (d) Notwithstanding the provisions of subsection (a) of this section, the juvenile or their
16 parent or legal guardian, may expressly waive the requirement that the parent or legal guardian be
17 present during the interrogation of the juvenile. This express waiver shall be in writing and shall be
18 obtained only after the juvenile and their parent(s) or legal guardian have been advised of their
19 constitutional rights, and the right to have their parent or legal guardian present for any custodial
20 questioning. If the presence of the parent or legal guardian is expressly waived, their absence shall
21 not make any statements or admissions by the juvenile inadmissible in any proceedings against
22 them.

23 (e) The department of children, youth and families may not act as legal guardian or physical
24 guardian for purposes of waiving the requirements of this section on behalf of any juvenile, except
25 in instances where the family court has granted the department's petition to terminate the parental
26 rights of the child in accordance with § 15-7-7, and the court has appointed the department as the
27 sole guardian of the youth.

28 (f) In the event that any provision of this section is in conflict with any provision of chapter
29 21.5 of title 16, the provisions of this section shall apply.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would prohibit any questioning of a juvenile who is suspected of delinquent or
2 criminal behavior unless the parent, guardian of the juvenile or the DCYF when parental rights are
3 terminated is present, or unless an attorney is present, or the juvenile and their parent have waived
4 their presence, or the court is satisfied that the juvenile has made a knowing voluntary waiver of
5 their rights, or the juvenile is emancipated or has misrepresented their age as being eighteen (18)
6 or older.

7 This act would take effect upon passage.

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