

2017 -- S 0427 SUBSTITUTE A

LC001518/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

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

Introduced By: Senators Conley, Goldin, Miller, Archambault, and Lynch Prata

Date Introduced: March 02, 2017

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  
5 interrogation of such juvenile, by a law enforcement official, concerning delinquent or criminal  
6 acts alleged to have been committed by the juvenile, shall be admissible in evidence against such  
7 juvenile, unless:

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

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

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

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

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

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

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

18 (v) A request for an attorney can be made by the juvenile or the parent or legal guardian

1 at any time during questioning.

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

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

6 (2) The court finds that, under the totality of the circumstances, the juvenile made a  
7 knowing, intelligent and voluntary waiver of their constitutional rights; or

8 (3) The juvenile misrepresented their age as being eighteen (18) years of age or older and  
9 the law enforcement official acted in good faith reliance on such representation in conducting the  
10 interrogation; or

11 (4) The juvenile is emancipated from their parent or legal guardian.

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

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

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

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

32 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 department when parental  
3 rights are terminated is present, or unless an attorney is present or the juvenile and their parent  
4 have waived their presence, or the court is satisfied that the juvenile has made a knowing  
5 voluntary waiver of their rights or the juvenile is emancipated or has misrepresented their age as  
6 being eighteen.

7           This act would take effect upon passage.

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