

2019 -- H 5334

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

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

Introduced By: Representatives Kislak, Knight, McEntee, Craven, and McKiernan

Date Introduced: February 07, 2019

Referred To: House 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 their
21 constitutional rights, and the right to have their parent or legal guardian present for any custodial
22 questioning. If the presence of the parent or legal guardian is expressly waived, their absence
23 shall not make any statements or admissions by the juvenile inadmissible in any proceedings
24 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 the requirements of this section on behalf of any
27 juvenile, except in instances where the family court has granted the department's petition to
28 terminate the parental rights of the child in accordance with § 15-7-7, and the court has appointed
29 the department 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 DCYF when parental rights
3 are terminated is present, or unless an attorney is present, or the juvenile and their parent have
4 waived their presence, or the court is satisfied that the juvenile has made a knowing voluntary
5 waiver of their rights, or the juvenile is emancipated or has misrepresented their age as being
6 eighteen (18) or older.

7 This act would take effect upon passage.

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