

§ 7B-2101. Interrogation procedures.

(a) Any juvenile, who is less than 16 years of age, in custody must be advised of all of the following prior to questioning:

- (1) That the juvenile has a right to remain silent.
- (2) That any statement the juvenile does make can be and may be used against the juvenile.
- (3) That the juvenile has a right to have a parent, guardian, or custodian present during questioning.
- (4) That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.

(a1) Any juvenile, who is 16 years of age or older, in custody must be advised of all of the following prior to questioning:

- (1) That the juvenile has a right to remain silent.
- (2) That any statement the juvenile does make can be and may be used against the juvenile.
- (3) That the juvenile has a right to have a parent, guardian, custodian, or caretaker present during questioning.
- (4) That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation.

(a2) If a juvenile, who is 16 years of age or older, requests that a parent, guardian, or custodian be present during questioning, law enforcement shall make a reasonable effort to contact the parent, guardian, or custodian. If the parent, guardian, or custodian is not available, a caretaker can be present during questioning.

(b) When the juvenile is less than 16 years of age, no in-custody admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made in the presence of the juvenile's parent, guardian, custodian, or attorney. If an attorney is not present, the parent, guardian, or custodian as well as the juvenile must be advised of the juvenile's rights as set out in subsection (a) of this section; however, a parent, guardian, or custodian may not waive any right on behalf of the juvenile.

(c) If the juvenile indicates in any manner and at any stage of questioning pursuant to this section that the juvenile does not wish to be questioned further, the officer shall cease questioning.

(d) Before admitting into evidence any statement resulting from custodial interrogation, the court shall find that the juvenile knowingly, willingly, and understandingly waived the juvenile's rights.

(e) For the purposes of this section, "caretaker" means any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, a foster parent, an adult member of the juvenile's household, an adult entrusted with the juvenile's care, a potential adoptive parent during a visit or trial placement with a juvenile in the custody of a department, any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. (1979, c. 815, s. 1; 1998-202, s. 6; 2015-58, s. 1.1; 2023-114, s. 3(a).)