

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 500

By: Senator G. Leding
By: Representatives Clowney, Capp

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE CUSTODIAL
INTERROGATION OF MINORS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE CUSTODIAL
INTERROGATION OF MINORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Developmental and neurological science concludes that the process of cognitive brain development continues into adulthood and that the human brain undergoes dynamic changes throughout adolescence that continue well into young adulthood;

(2) The United States Supreme Court found that children:

(A) Generally are less mature and responsible than adults. J.D.B. v. North Carolina, 564 U.S. 261 (2011) (quoting Eddings v. Oklahoma, 455 U.S. 104 (1982));

(B) Often lack the experience, perspectives, and judgment to recognize and avoid choices that could be detrimental to them. J.D.B. v. North Carolina, 564 U.S. 261 (2011) (quoting Bellotti v. Baird, 443 U.S. 622 (1979));

(C) Are more vulnerable or susceptible to outside pressures than adults. J.D.B. v. North Carolina, 564 U.S. 261 (2011) (quoting Roper v. Simmons, 543 U.S. 551 (2005));



(D) Have limited understanding of the criminal justice system and the roles of the institutional actors within it. Graham v. Florida, 560 U.S. 48 (2010); and

(E) Characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them. J.D.B. v. North Carolina, 564 U.S. 261 (2011);

(3) Custodial interrogation of an individual by the state requires that the individual be advised of his or her rights and make a knowing, intelligent, and voluntary waiver of those rights before the interrogation proceeds;

(4) Children who are under sixteen (16) years of age do not have the same ability as adults to comprehend the meaning of their rights and the consequences of the waiver of their rights; and

(5) In situations of custodial interrogation and before the waiver of rights under Miranda v. Arizona, 384 U.S. 436 (1966), children who are under sixteen (16) years of age should consult legal counsel to assist in their understanding of their rights and the consequences of waiving their rights.

SECTION 2. Arkansas Code Title 16, Chapter 80, Subchapter 1, is amended to add an additional section to read as follows:

16-80-105. Right of minor to consult with attorney.

(a) As used in this section, "minor" means a person who is under sixteen (16) years of age.

(b)(1) A minor shall be given the opportunity to consult with an attorney in person, by telephone, or by video conference before:

(A) A custodial interrogation of the minor; or

(B) The minor waives his or her rights provided in Miranda v. Arizona, 384 U.S. 436 (1966).

(2) The right of a minor to consult with an attorney as provided under subdivision (b)(1) of this section shall not be waived.

(c) In determining the admissibility of a statement of a minor that is made during or after a custodial interrogation of the minor, the court shall consider the effect of a failure to comply with subsection (b) of this section.

(d) This section does not prevent a statement of a minor obtained

during a custodial interrogation of the minor from being admissible as evidence if the law enforcement officer who questioned the minor:

(1) Reasonably believed that the information he or she sought was necessary to protect life or property from an imminent threat; and

(2) Limited his or her questions to questions that were reasonably necessary to obtain the information necessary to protect life or property from an imminent threat.