

28 Section 1. Section 80-6-206 is amended to read:

29 **80-6-206. Interrogation of a child -- Presence of a parent, legal guardian, or other**
30 **adult -- Prohibition on false information or unauthorized statement -- Admissibility of**
31 **admission, confession, or statement by child.**

32 (1) As used in this section:

33 (a) "Custodial interrogation" means any interrogation of a [~~minor~~] child while the
34 individual is in custody.

35 (b) (i) "Friendly adult" means an adult:

36 (A) who has an established relationship with the child to the extent that the adult can
37 provide meaningful advice and concerned help to the child should the need arise; and

38 (B) who is not hostile or adverse to the child's interest.

39 (ii) "Friendly adult" does not include a parent or guardian of the child.

40 (c) (i) "Interrogation" means any express questioning or any words or actions that are
41 reasonably likely to elicit an incriminating response.

42 (ii) "Interrogation" does not include words or actions normally attendant to arrest and
43 custody.

44 (2) (a) If a child is subject to a custodial interrogation for an offense, the child has the
45 right to have:

46 [~~(a)~~] (i) [~~to have~~] the child's parent or guardian present during an interrogation of the
47 child; or

48 [~~(b)~~] (ii) [~~to have~~] a friendly adult present during an interrogation of the child if:

49 [~~(i)~~] (A) there is reason to believe that the child's parent or guardian has abused or
50 threatened the child; or

51 [~~(ii)~~] (B) the child's parent's or guardian's interest is adverse to the child's interest,
52 including that the parent or guardian is a victim or a codefendant of the offense alleged to have
53 been committed by the child.

54 (b) A child's parent or guardian, or a friendly adult, is present at a custodial
55 interrogation if ~~H~~→ :

55a (i) ~~H~~← the parent, guardian, or friendly adult attends the custodial interrogation in
56 person or by video ~~H~~→ [] ; and

56a (ii) an interpreter is provided to the child and the parent, guardian, or friendly adult if the
56b child or the parent, guardian, or friendly adult is unable to speak or understand English. ~~H~~←

57 (3) If a child is subject to a custodial interrogation for an offense, the child may not be
58 interrogated unless:

121 (i) the ~~[individual]~~ child has had a meaningful opportunity to consult with the
 122 ~~[individual's]~~ child's appointed or retained attorney;

123 (ii) the ~~[individual]~~ child waives the individual's constitutional rights after consultation
 124 with the ~~[individual's]~~ child's appointed or retained attorney; and

125 (iii) the ~~[individual's]~~ child's appointed or retained attorney is present for the
 126 interrogation.

127 (b) Subsection (7)(a) does not apply to a juvenile probation officer or a staff member of
 128 a detention facility, unless the juvenile probation officer or the staff member is interrogating
 129 the ~~[individual]~~ child on behalf of a peace officer or a law enforcement agency.

130 (c) A child's appointed or retained attorney is present at a custodial interrogation as
 131 described in this Subsection (7) if the attorney attends the custodial interrogation in person or
 132 by video.

133 (8) If a child is subject to a custodial interrogation for an offense, a peace officer, or an
 134 individual interrogating a child on behalf of a peace officer or a law enforcement agency, may
 135 not knowingly:

136 (a) provide false information about evidence that is reasonably likely to elicit an
 137 incriminating response from the child; or

138 (b) make an unauthorized statement about leniency for the offense.

139 (9) A law enforcement agency shall make an audio recording or an audio-video
 140 recording that accurately records a custodial interrogation of a child.

141 (10) (a) If a peace officer or juvenile probation officer intentionally, knowingly,
 142 ~~H→ [recklessly, or negligently]~~ or recklessly ←H fails to comply with the requirements for a
 142a custodial interrogation of

143 a child as described in this section, any admission, confession, or statement made by the child
 144 as a result of the custodial interrogation is presumed:

145 (i) to not be voluntarily, knowingly, and intelligently made; and

146 (ii) to not be admissible as evidence against the child.

147 (b) A prosecuting attorney may only overcome the presumption described in
 148 Subsection (10)(a) by a preponderance of the evidence showing that the child had the ability to
 149 comprehend and waive:

150 (i) the child's constitutional rights; and

151 (ii) if the child has a right to have a parent, guardian, or friendly adult present under