1	State of Arkansas	As Engrossed: \$3/20/17	
2	91st General Assembly	A Bill	
3	Regular Session, 2017		SENATE BILL 616
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5	By: Senator Bond		
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7		For An Act To Be Entitled	
8	AN ACT COM	NCERNING THE INTERROGATION OF A	JUVENILE BY
9	LAW ENFORCEMENT; CONCERNING JUVENILE CONFESSIONS; AND		
10	FOR OTHER	PURPOSES.	
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13		Subtitle	
14	CONC	ERNING THE INTERROGATION OF A	
15	JUVE	NILE BY LAW ENFORCEMENT; AND	
16	CONC	ERNING JUVENILE CONFESSIONS.	
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19	BE IT ENACTED BY THE C	GENERAL ASSEMBLY OF THE STATE OF	F ARKANSAS:
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21	SECTION 1. Arka	ansas Code § 9-27-317(a)(3), com	ncerning the agreement of
22	a parent, guardian, custodian, or counsel to a juvenile's waiver of the right		
23	to counsel, is amended	d to read as follows:	
24	(3) The p	parent, guardian, custodian, <u>De</u> p	partment of Human
25	Services caseworker,	or counsel for the juvenile has	agreed with the
26	juvenile's decision to	o waive the right to counsel.	
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28	SECTION 2. The	introductory language of Arkans	sas Code § 9-27-317(b),
29	concerning the court's	s acceptance of the agreement of	f a parent, guardian,
30	custodian, or counsel	to a juvenile's waiver of the a	right to counsel, is
31	amended to read as fol	llows:	
32	(b) The agreeme	ent of the parent, guardian, cus	stodian, <u>Department of</u>
33	Human Services casewor	rker, or attorney <u>counsel for th</u>	<u>he juvenile</u> shall be
34	accepted by the court	only if the court finds:	
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36	SECTION 3. Arks	ansas Code § 9-27-317(c), conce	rning factors considered

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1 by the court in determining whether a juvenile's waiver of the right to

- 2 counsel was made freely, voluntarily, and intelligently, is amended to read
- 3 as follows:
- 4 (c) In determining whether a juvenile's waiver of the right to counsel
- 5 at any stage of the proceeding was made freely, voluntarily, and
- 6 intelligently, the court shall consider all the circumstances of the waiver,
- 7 including:
- 8 (1) The juvenile's physical, mental, and emotional maturity;
- 9 (2) Whether the juvenile understood the consequences of the
- 10 waiver;
- 11 (3) In cases in which the custodial parent, guardian, or
- 12 custodian, or Department of Human Services caseworker agreed with the
- 13 juvenile's waiver of the right to counsel, whether the parent, guardian, or
- 14 custodian, or Department of Human Services caseworker understood the
- 15 consequences of the waiver;
- 16 (4) Whether the juvenile and his or her custodial parent,
- 17 guardian, or custodian, or Department of Human Services caseworker were
- 18 informed of the alleged delinquent act;
- 19 (5) Whether the waiver of the right to counsel was the result of
- 20 any coercion, force, or inducement;
- 21 (6) Whether the juvenile and his or her custodial parent,
- 22 guardian, or custodian had been or custodian, or Department of Human Services
- 23 caseworker were advised of the juvenile's right to remain silent and to the
- 24 appointment of counsel and had waived such rights; and
- 25 (7) Whether the waiver was recorded in audio or video format and
- 26 the circumstances surrounding the availability or unavailability of the
- 27 recorded waiver.

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- 29 SECTION 4. Arkansas Code § 9-27-317(g), concerning nonacceptance of a
- 30 waiver of the right to counsel when a juvenile is in the custody of the
- 31 Department of Human Services, is amended to read as follows:
- 32 (g) No waiver of the right to counsel shall be accepted when a
- 33 juvenile is in the custody of the Department of Human Services, including the
- 34 Division of Youth Services of the Department of Human Services, regardless of
- 35 whether the juvenile's case is transferred to the criminal division of
- 36 <u>circuit court</u>.

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2	SECTION 5. Arkansas Code § $9-27-317(h)(2)(A)$, concerning the		
3	appointment of counsel for a juvenile when a custodial parent, guardian, or		
4	custodian of the juvenile cannot be located or refuses to go to the place		
5	where the juvenile is held, is amended to read as follows:		
6	(2)(A) When a custodial parent, guardian, or custodian <u>, or</u>		
7	Department of Human Services caseworker cannot be located or is located and		
8	refuses to go to the place where the juvenile is being held, counsel shall h		
9	appointed for the juvenile.		
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11	SECTION 6. Arkansas Code § 9-27-318, concerning the filing of a motion		
12	to transfer a juvenile delinquency case to the criminal division of circuit		
13	court, is amended to add an additional subsection to read as follows:		
14	(n)(1) If the parent, guardian, custodian, Department of Human		
15	Services caseworker, or counsel for a juvenile is not present and has not		
16	agreed with the juvenile's decision to waive the right to counsel, the		
17	juvenile's waiver of the right to counsel shall be valid only in the crimina		
18	division of circuit court if the waiver occurs after the juvenile is charged		
19	as an adult and is informed by the state that he or she is being charged as		
20	<u>an adult.</u>		
21	(2) A juvenile's waiver of the right to counsel before the		
22	juvenile is charged as an adult is invalid if the juvenile's case is		
23	transferred to the criminal division of circuit court.		
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25	/s/Bond		
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