

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S3/20/17

A Bill

SENATE BILL 616

5 By: Senator Bond
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For An Act To Be Entitled

8 AN ACT CONCERNING THE INTERROGATION OF A JUVENILE BY
9 LAW ENFORCEMENT; CONCERNING JUVENILE CONFESSIONS; AND
10 FOR OTHER PURPOSES.
11

Subtitle

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13 CONCERNING THE INTERROGATION OF A
14 JUVENILE BY LAW ENFORCEMENT; AND
15 CONCERNING JUVENILE CONFESSIONS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 *SECTION 1. Arkansas Code § 9-27-317(a)(3), concerning the agreement of*
22 *a parent, guardian, custodian, or counsel to a juvenile's waiver of the right*
23 *to counsel, is amended to read as follows:*

24 *(3) The parent, guardian, custodian, Department of Human*
25 *Services caseworker, or counsel for the juvenile has agreed with the*
26 *juvenile's decision to waive the right to counsel.*
27

28 *SECTION 2. The introductory language of Arkansas Code § 9-27-317(b),*
29 *concerning the court's acceptance of the agreement of a parent, guardian,*
30 *custodian, or counsel to a juvenile's waiver of the right to counsel, is*
31 *amended to read as follows:*

32 *(b) The agreement of the parent, guardian, custodian, Department of*
33 *Human Services caseworker, or ~~attorney~~ counsel for the juvenile shall be*
34 *accepted by the court only if the court finds:*
35

36 *SECTION 3. Arkansas Code § 9-27-317(c), concerning factors considered*



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 circuit court.

