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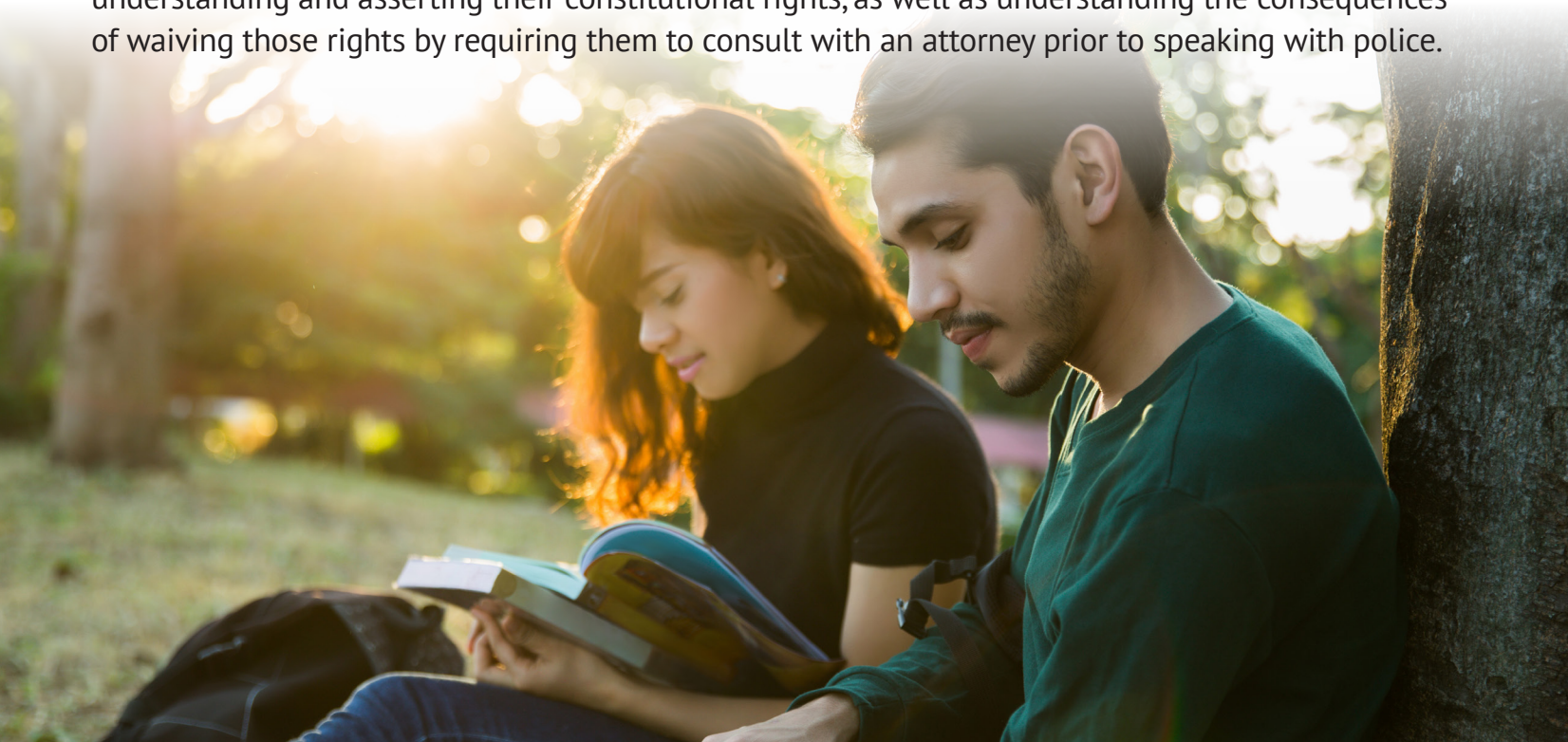
Senate Bill 203 – Miranda Protections for Youth *A Guide for Law Enforcement*

Effective January 1, 2021, SB 203 requires that youth under the age of 18 consult with an attorney in person, by telephone, or by video conference prior to a custodial interrogation and waiving Miranda rights.^[1] This consultation may not be waived.

Background

Research on adolescent development indicates that in high stress situations, like custodial interrogations, students may have difficulty understanding complex legal concepts, such as their constitutional rights and the consequences of waiving those rights.^[2] As a result, a recent study of exonerations found that 42% percent of innocent youth falsely confessed, compared to 13% of adults.^[3] The

Miranda Protections for Youth Bill ensures that youth have meaningful access to understanding and asserting their constitutional rights, as well as understanding the consequences of waiving those rights by requiring them to consult with an attorney prior to speaking with police.



[1] SB 203 is an expansion of the law that went into effect in 2017 (SB 395) that created these protections for youth 15 years old and younger.

[2] Megan Glynn Crane, Childhood Trauma's Lurking Presence in the Juvenile Interrogation Room and the Need for A Trauma-Informed Voluntariness Test for Juvenile Confessions, 62 S.D. L. Rev. 626, 627 (2017)

[3] Gross, Samuel R. and Jacoby, Kristen and Matheson, Daniel J. and Montgomery, Nicholas and Patil, Sujata, Exonerations in the United States, 1989 Through 2003. *Journal of Criminal Law and Criminology*, Vol. 95, No. 2, 2005, Available at SSRN: <https://ssrn.com/abstract=753084> Voluntariness Test for Juvenile Confessions, 62 S.D. L. Rev. 626, 627 (2017)

What Does Senate Bill 203 Do?

New Requirements for Law Enforcement

- > **Requires all youth 17 years old and younger to speak to legal counsel prior to a custodial interrogation and before the waiver of any Miranda rights. This consultation may not be waived.**



- 1) Prior to custodial interrogation and the reading of Miranda rights, determine the age of the youth.
- 2) If a youth is under 18 years old, refrain from the reading of Miranda rights and questioning until the youth has consulted with an attorney.
- 3) Contact the county's Public Defender office or county public defense provider to ensure youth speak to an attorney prior to reading of Miranda rights and questioning.
- 4) The consultation with the attorney must private and may take place in person or via telephone or video conference. It may not be recorded.
- 5) If a youth invokes their Miranda right to remain silent after speaking to the attorney, refrain from questioning.
- 6) This law applies to all settings, including school campuses.

New Requirements for the Juvenile Court

- > **Requires courts to consider:**

- 1) The effect of an officer's failure to allow a youth to speak with counsel prior to a custodial interrogation when adjudicating the admissibility of statements, and
- 2) The willful failure of an officer to enable a youth to speak with counsel prior to custodial interrogation when determining the credibility of a law enforcement officer.



- > **Provides an exception to the requirements that courts consider law enforcement's failure to provide access to an attorney prior to custodial interrogation in the following circumstances:**

- 1) The officer reasonably believed the information was necessary to protect life or property from an imminent threat, and
- 2) The questions were limited to those reasonably necessary to obtain that information.



To request training or technical assistance, please contact

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