

CHAPTER 197
FORMERLY
HOUSE BILL NO. 6

AN ACT TO AMEND TITLES 10 AND 14 OF THE DELAWARE CODE RELATING TO A JUVENILE'S RIGHT TO COUNSEL IN FAMILY COURT AND THE JUSTICE OF THE PEACE COURT.

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

Section 1. Amend Subchapter III, Chapter 9, Title 10 of the Delaware Code by making deletions as shown by strike through or insertions as shown by underline as follows:

§ 1007C. Appointment of counsel for juveniles.

(a) A juvenile against whom delinquency proceedings have been initiated shall have the right to counsel at all stages.

(b) If a juvenile is not represented by counsel at his or her initial Family Court appearance, the Court shall order the Chief Defender to assign counsel to represent the juvenile.

(c) The juvenile's right to be represented by counsel under subsection (a) of this section shall not be waived:

(1) By a juvenile of any age where the delinquent act the juvenile is accused of is a felony.

(2) By a juvenile of any age who is in the custody of the Division of Family Services.

(3) By a juvenile who is younger than 16 years of age at the time of the attempted waiver.

(4) By a juvenile whose family member, guardian, or custodian is the alleged victim of the delinquent act or whose interest is determined by the Court to be adverse to the juvenile's interest.

(d) Unless prohibited pursuant to subsection (c) of this section, a juvenile may waive the right to counsel in accordance with Family Court Rules. However, no such waiver shall be permitted unless the juvenile has been informed of the juvenile's right to counsel, and the consequences of a waiver, through an in-person meeting with counsel.

Section 2. Amend Section 2731, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2731. Enforcement of court order.

(a) The court shall retain jurisdiction of the matter until all terms of the court's order have been complied with regardless of any change in the student's age, marital status or choice of educational source or location.

(b) Notwithstanding any provision of this Code to the contrary, if the court determines a student has not complied with the terms of the court's order, it may charge the noncompliant student with criminal contempt pursuant to § 1271 of Title 11, and fully adjudicate the matter in the Justice of the Peace Court.

(c) A juvenile against whom criminal contempt proceedings pursuant to this section and §1271 of Title 11 have been initiated shall have the right to counsel at all stages.

(d) If a juvenile is not represented by counsel at his or her initial Justice of the Peace Court appearance, the Court shall order the Chief Defender to assign counsel to represent the juvenile.

(e) Prohibitions on the waiver of the right to counsel shall be as set forth in § 1007C of Title 10.

(f) Unless prohibited, the right to counsel may be waived in accordance with the Rules of the Justice of the Peace Court.

Approved October 12, 2017