



SPONSOR: Rep. Bentz & Sen. Henry
Reps. Baumbach, Bolden, Brady, Heffernan, J. Johnson,
Keeley, Longhurst, Lynn, Paradee, Potter; Sen. Townsend

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

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:

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

3 § 1007C. Appointment of counsel for juveniles.

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

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

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

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

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

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

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

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

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

19 § 2731. Enforcement of court order.

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

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

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

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

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

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

SYNOPSIS

This Act codifies a juvenile's right to counsel in Family Court delinquency proceedings. The bill outlines certain circumstances where a juvenile may not waive the right to counsel: where the juvenile is accused of a felony, where the juvenile is in the custody of the Division of Family Services, where the juvenile is under the age of 16, or where the victim of the alleged delinquent act is a family member or guardian or where the family member or guardian has an interest adverse to the juvenile.

The bill also codifies a right to counsel in criminal contempt proceedings related to truancy in the Justice of the Peace Court. The procedures for appointment and waiver are the same as set forth for Family Court.