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Code of Ala. § 12-15-202

MICHIE'S ALABAMA CODE ANNOTATED
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*** Current through the end of the 2009 Regular and First Special Sessions ***
 *** (including Acts 2009, No. 09-513 effective January 1, 2011) ***

TITLE 12 Courts
 Chapter 15 Juvenile Proceedings
 Article 2 Delinquency and Children in Need of Supervision

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Code of Ala. § 12-15-202 (2009)

§ 12-15-202. Rights of the child.

(a) *Rights of the child when taken into custody.* When a child is taken into custody, the person taking the child into custody shall inform the child of all of the following, in language understandable to the child:

(1) The reason that the child is being taken into custody.

(2) That the child has the right to communicate with his or her parent, legal guardian, or legal custodian whether or not that person is present. If necessary, reasonable means will be provided for the child to do so.

(3) The child has the right to communicate with an attorney. If the child does not have an attorney, one will be appointed for him or her. If the child has an attorney who is not present, reasonable means shall be provided for the child to communicate with the attorney.

(b) *Rights of the child before being questioned while in custody.* Before the child is questioned about anything concerning the charge on which the child was taken into custody, the person asking the questions shall inform the child of the following rights:

(1) That the child has the right to a child's attorney.

(2) That if the child is unable to pay for a child's attorney and if the parent, legal guardian, or legal custodian of the child has not provided a child's attorney, one will be appointed.

(3) That the child is not required to say anything and that anything the child says may be used against the child.

(4) That the child has a right to communicate with his or her parent, legal guardian, or legal custodian, whether or not that person is present. If necessary, reasonable means will be provided for the child to do so.

(5) That even if the child's attorney is not present or has not yet been appointed, the child has the right to communicate with him or her and that, if necessary, reasonable means will be provided for the child to do so.

(c) When a child is brought to the juvenile court intake office or delivered to a juvenile detention facility or shelter care facility, the juvenile court intake officer or person in charge of the facility shall immediately inform the child of the following:

(1) The reason for the detention of the child.

(2) The right of the child to a hearing to determine if continued detention or shelter care is needed as provided in this article.

(3) That the parent, legal guardian, or legal custodian will be informed of the whereabouts of the child and the reason for the detention of the child.

(d) *Rights of the child upon detention in a juvenile court intake office or juvenile detention facility or shelter care facility.* When a child is detained pursuant to subsection (c), the person in charge of the juvenile court intake office or the facility shall notify the child of the rights of the child as set out in subsection (b).

(1) The person in charge of the juvenile court intake office or the juvenile detention facility, in the most expeditious manner possible, shall ensure that the parent, legal guardian, or legal custodian of the child is notified of the whereabouts of the child

and the reason for the detention of the child. Except in the situation provided herein, the person in charge shall also inform the parent, legal guardian, or legal custodian of the child of the rights of the child and of the right of the parent, legal guardian, or legal custodian to be represented by counsel. The parent, legal guardian, or legal custodian shall also be informed of the right of the child to remain silent. However, if the child has been read his or her rights, understands those rights, and knowingly, voluntarily, and intelligently waives those rights, then it is not necessary that the parent, legal guardian, or legal custodian be notified of the rights of the child or be present during the interrogation. This notification to the parent, legal guardian, or legal custodian, if practicable, shall be made in person or by telephone; otherwise, the communication shall be by the best means practicable.

(2) A written statement containing the information in subdivision (1) shall be given to the parent, legal guardian, or legal custodian of the child at the first meeting with the juvenile court intake officer or person in charge of the facility. If the parent, legal guardian, or legal custodian does not appear at the facility within 24 hours after the placement of the child in the facility, or if the parent, legal guardian, or legal custodian fails to attend the detention or shelter care hearing, this written statement shall be mailed if an address may reasonably be ascertained.

(e) *Rights of parties once a petition is filed.* If a petition has been filed, the parties shall be informed of their rights as set out in subsections (b) and (d). Additionally, the juvenile court judge or referee shall inform the parties at the commencement of the detention or shelter or other care hearing of the contents of the petition and all of the parties shall be given an opportunity to admit or deny the allegations of the petition.

(f) Additional rights of the child include all of the following:

(1) The child has a right to be represented by a child's attorney at all stages of a juvenile court proceeding under this article.

a. In any proceeding in which there is a possibility that the child may be placed in an institution in which the freedom of the child may be curtailed, and in which proceeding a child's attorney has not been retained, a child's attorney shall be appointed for the child.

b. In all other juvenile court proceedings, the juvenile court may appoint a child's attorney in any case upon request or when it deems the appointment to be in the interests of justice.

c. In addition to those **duties** referenced in subdivision (5) of Section 12-15-102, the **duties** of a child's **attorney** include, but are not limited to, the following:

1. Irrespective of the age of the child, meet with the child prior to juvenile court hearings, when apprised of emergencies or significant events impacting on the child, and as necessary to prepare for the juvenile court proceeding. The child's attorney shall explain, in terms understandable to the child, what is expected to happen at each stage of the proceedings, as well as the rights of the child at each stage of the proceedings.

2. Conduct a prompt, thorough, and independent investigation of the facts, the health, family, social history, and educational background of the child, possible defenses, and applicable law, and seek discovery from the prosecution.

3. Based upon the investigation, advise the child, in terms he or she can understand, as to his or her options for proceeding in the case and the likely outcomes of the various courses of action. Conduct the defense in accordance with the expressed interests of the client regarding whether to seek release from detention, whether to admit or deny the allegations, whether to testify, whether to enter into a negotiated settlement, whether to appeal, whether to accept or oppose a recommended disposition, and the overall goals of the representation.

4. Attend all hearings scheduled by the juvenile court and file all necessary pleadings and motions to promote the expressed interests of the child and protect his or her rights.

5. Maintain familiarity with the dispositional resources available through the juvenile court and in the community, and recommend appropriate services to the child and the family. Advocate in the dispositional process to protect the rights of the client, meet the goals of the representation, and ensure that the juvenile court is aware of any special needs of the child that should be addressed in the dispositional process.

(2) The child, through a child's attorney, has the right to cross-examine witnesses.

(3) The child has the right to confront all witnesses against the child, subject to limitations recognized by the United States Supreme Court.

(4) The child shall be furnished a transcript on appeal. If the child or the parent, legal guardian, or legal custodian of the child cannot afford a transcript, the juvenile court shall order that the transcript be paid for out of funds set aside for this purpose.

HISTORY: Acts 2008, No. 08-277, § 11, Jan. 1, 2009.

NOTES: Effective dates.

Acts 2008, No. 08-277, effective January 1, 2009.

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