

Juvenile Interrogation

- I. Juvenile rights during a custodial interrogation are derived from
 - a. _____ Amendment privilege against _____
 - b. G.S. 7B-_____
- II. These rights apply to every custodial interrogation of people under the age of _____ (State v. Fincher, 309 N.C. 1 (1983))
- III. Statutory Rights
 - a. Juveniles under the age ____ have the right to have a parent, guardian, or custodian present during questioning (G.S. 7B-2101(a))
 - i. Juveniles under the age of 16 MUST have a _____, _____, _____, or _____ present during a custodial interrogation in order for any statement made to be admissible (G.S. 7B-2101(b))
 - b. Juveniles aged ____ and ____ have the right to have a parent, guardian, custodian, or _____ present during questioning (G.S. 7B02101(a1))
 - i. The definition of _____ is in G.S. 7B-_____ and includes anyone other than a parent, guardian, or custodian who has responsibility for the _____ and _____ of the juvenile in a _____ setting
 - ii. If the juvenile requests a parent, guardian, or custodian and law enforcement makes a _____ _____ to contact that person and that person is not _____, then the _____ can be present (G.S. 7B-2101(a2))
 - c. Only people who have an established _____ relationship with the juvenile count as a guardian or custodian for this purpose (State v. Oglesby, 361 N.C. 550 (2007) State v. Benitez (Benitez I), 258 N.C. App. 491 (2018))
- IV. For these rights to apply, the questioning must constitute _____
 - a. Custody
 - i. Was there a formal arrest or a restraint on the juvenile's freedom of movement to the degree associated with a formal _____?
 - ii. This is an _____ assessment based on the _____ of the circumstances

iii. If the child's _____ is known or objectively apparent to a _____ officer, then it must be included in the objective custody analysis. The question is how would a reasonable _____ have felt in that situation?

iv. Factors to consider:

1. Whether the juvenile is told they are _____ to leave or that they are under _____
2. Location
3. _____ nature of the juvenile's participation
4. Length of _____
5. Whether breaks were offered
6. Presence of _____ officers and their _____

v. School context

1. SRO involvement is not _____. SRO involvement may be _____ and still constitute custody.
2. School custody factors in *In re D.A.H.*, 277 N.C.App. 16 (2012)
 - a.
 - b.
 - c.
 - d.
 - e.
 - f.
 - g.
 - h.

b. Interrogation

- i. Express questioning or
- ii. Questioning that is the _____ equivalent of express questioning
 1. Words or _____ by law enforcement that they should have known were reasonably likely to elicit an _____ response
 2. Factors:
 - a. Officer _____
 - b. Practice designed to _____ an incriminating response
 - c. Officer knowledge about the juvenile's unusual _____ to a specific form of persuasion
- iii. School context factors in *In re D.A.H.*, 277 N.C.App. 16 (2012)
 - 1.
 - 2.
 - 3.

- V. Invocation and waiver of rights
- a. Invocation of rights must be _____ *State v. Saldierna*, 369 N.C. 401 (2016)
 - b. The only person who can waive the juvenile's rights is the _____
 - i. Parent cannot _____ for the juvenile *In re Ewing*, 83 N.C. App. 535 (1986)
 - ii. Parental refusal _____ constitute waiver *In re Butts*, 157 N.C. App. 609 (2003), *State v. Branham*, 153 N.C. App. 91(2002)
 - c. Anyone under age _____ must have a _____, _____, _____, or _____ present for their statement to be admissible
 - d. A waiver must be _____, willing, and _____
G.S. 7B-2101(d)
 - i. The _____ of the circumstances governs whether a waiver meets these criteria. Factors to consider include (*Fare v. Michael C.*, 442 U.S. 707, 725 (1979)):
 - 1.
 - 2.
 - 3.
 - 4.
 - 5.
 - e. Expert testimony is not required to prove that the juvenile understood their rights. This is a question of _____ to be decided by the trial court based on the _____ *State v. Benitez (Benitez II)*, 283 N.C.App. 40 (2022)
 - f. An express _____ waiver is strong _____ of waiver. But it is not _____ *In re M.L.T.H.*, 200 N.C. App. 476 (2009)