

## **IC 31-32-5**

### **Chapter 5. Waiver of Rights**

#### **IC 31-32-5-1**

##### **Waiver of rights guaranteed to child**

Sec. 1. Any rights guaranteed to a child under the Constitution of the United States, the Constitution of the State of Indiana, or any other law may be waived only:

- (1) by counsel retained or appointed to represent the child if the child knowingly and voluntarily joins with the waiver;
- (2) by the child's custodial parent, guardian, custodian, or guardian ad litem if:
  - (A) that person knowingly and voluntarily waives the right;
  - (B) that person has no interest adverse to the child;
  - (C) meaningful consultation has occurred between that person and the child; and
  - (D) the child knowingly and voluntarily joins with the waiver; or
- (3) by the child, without the presence of a custodial parent, guardian, or guardian ad litem, if:
  - (A) the child knowingly and voluntarily consents to the waiver; and
  - (B) the child has been emancipated under IC 31-34-20-6 or IC 31-37-19-27, by virtue of having married, or in accordance with the laws of another state or jurisdiction.

*As added by P.L.1-1997, SEC.15.*

#### **IC 31-32-5-2**

##### **Child's waiver of right to meaningful consultation**

Sec. 2. The child may waive the child's right to meaningful consultation under section 1(2)(C) of this chapter if:

- (1) the child is informed of that right;
- (2) the child's waiver is made in the presence of the child's custodial parent, guardian, custodian, guardian ad litem, or attorney; and
- (3) the waiver is made knowingly and voluntarily.

*As added by P.L.1-1997, SEC.15.*

#### **IC 31-32-5-3**

##### **Admissibility of excluded statement for impeachment purposes**

Sec. 3. If:

- (1) a statement made knowingly and voluntarily cannot be admitted as evidence against a child because of failure to meet the requirements of section 1 of this chapter; and
- (2) the child testifies in the child's own defense;

the statement may be admitted to impeach the child as a witness in the same manner as evidence of any other prior inconsistent statement can be admitted for impeachment.

*As added by P.L.1-1997, SEC.15.*

**IC 31-32-5-4****Waiver of rights during custodial interrogation**

Sec. 4. In determining whether any waiver of rights during custodial interrogation was made knowingly and voluntarily, the juvenile court shall consider all the circumstances of the waiver, including the following:

- (1) The child's physical, mental, and emotional maturity.
- (2) Whether the child or the child's parent, guardian, custodian, or attorney understood the consequences of the child's statements.
- (3) Whether the child and the child's parent, guardian, or custodian had been informed of the delinquent act with which the child was charged or of which the child was suspected.
- (4) The length of time the child was held in custody before consulting with the child's parent, guardian, or custodian.
- (5) Whether there was any coercion, force, or inducement.
- (6) Whether the child and the child's parent, guardian, or custodian had been advised of the child's right to remain silent and to the appointment of counsel.

*As added by P.L.1-1997, SEC.15.*

**IC 31-32-5-5****Parent's waiver of right to representation by counsel**

Sec. 5. A parent who is entitled to representation by counsel may waive that right if the parent does so knowingly and voluntarily.

*As added by P.L.1-1997, SEC.15.*

**IC 31-32-5-6****Waiver of service of summons**

Sec. 6. Any person other than the child may waive service of summons if the person does so in writing.

*As added by P.L.1-1997, SEC.15.*

**IC 31-32-5-7****Waiver of right of parent, guardian, or custodian to be present at hearing concerning child**

Sec. 7. The right of a parent, guardian, or custodian to be present at any hearing concerning the person's child is waived by the person's failure to appear after lawful notice.

*As added by P.L.1-1997, SEC.15.*