



SENATOR
RICARDOLARA
LEGISLATIVE FACTSHEET

Miranda Rights for Youth Senate Bill 395

Summary:

SB 395 will require youth under the age of 18 to consult with legal counsel before they waive their constitutional rights.

Background:

Currently in California, children—no matter how young— can waive their *Miranda* rights. When law enforcement conducts a custodial interrogation, they are required to recite basic constitutional rights to the individual, known as *Miranda* rights, and secure a waiver of those rights before proceeding. The waiver must be voluntarily, knowingly, and intelligently made. *Miranda* waivers by juveniles present distinct issues. Recent advances in cognitive science research have shown that the capacity of youth to grasp legal rights is less than that of an adult. This is especially true for very young, developmentally disabled, or cognitively delayed children, and for those with mental health problems.

Although existing law assures counsel for youth accused of crimes, the law does not require law enforcement to recognize that youth are different from adults. It is critical to ensure a youth understands their rights before waiving them.

Recently an appellate court held that a 10-year-old boy made a voluntary, knowing, and intelligent waiver of his *Miranda* rights. When the police asked if he understood the right to remain silent, he replied, “Yes, that means that I have the right to stay calm.” The California Supreme Court declined to review the lower court’s decision. Several justices disagreed, and in his dissenting statement Justice Liu noted that many states have taken legislative action on this issue and suggests that California should as well, stating that state law on juvenile waivers is a half-century old and, “predates by several decades the growing body of scientific research that the [U.S. Supreme Court] has repeatedly found relevant in assessing differences in mental capabilities between children and adults.”

Studies have demonstrated youth often do not fully comprehend the consequences of waiving their rights. They are also much more likely than adults to waive their rights and to confess to crimes they did not commit. A recent study of exonerations found that 13 percent of adults had falsely confessed, compared to 42 percent of juveniles. The ramifications for both the individual and society of false confessions are far-reaching.

Problem:

Our society recognizes that children are especially vulnerable in legal situations, which is why youth cannot buy alcohol and cigarettes or enter into legal contracts, yet our state’s laws do not recognize their diminished capacity to understand their *Miranda* rights. Other states have acknowledged the difference between youth and adults and passed laws providing safeguards for youth. Unfortunately, for juveniles in California, our justice system only provides *Miranda* rights in theory. In practice the system is flawed and can and does result in serious disproportionate negative consequences for youth who have the same rights as adults, but do not have the same capacity to understand their rights or the consequences of waiving them.

Solution:

SB 395 will require youth under 18 to consult with counsel prior to waiving their rights. This will preserve youth’s constitutional rights and protect the integrity of our criminal justice system. This bill will bring California’s law in line with modern science. By ensuring youth understand their rights, we ensure the outcome of interrogations are just and lawful, and create greater trust, accountability, and due process for all.

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