

1 **Rule 26. Rights of minors in delinquency proceedings.**

2 (a) A minor who is the subject of a delinquency petition filed pursuant to ~~Section Utah~~  
3 ~~Code section~~ 78A-6-103 or a criminal information filed pursuant to Utah Code section  
4 78A-6-103.5 shall be advised of the following rights:

5 ~~(a)~~(1) to appear in person and to defend in person or by counsel;

6 ~~(a)~~(2) to receive a copy of the petition which contains the allegations against the  
7 minor;

8 ~~(a)~~(3) to testify in the minor's own behalf;

9 ~~(a)~~(4) to be confronted by the witnesses against the minor;

10 ~~(a)~~(5) to have compulsory process to ensure the attendance of witnesses in the  
11 minor's behalf;

12 ~~(a)~~(6) to be represented by appointed counsel at all stages of the proceedings ~~and~~  
13 ~~if indigent, to have appointed counsel;~~

14 ~~(a)~~(7) to remain silent and to be advised that anything the minor says can and will  
15 be used against the minor in any court proceedings; and

16 ~~(a)~~(8) to appeal any adjudication against the minor in the manner provided by  
17 law.

18 ~~(b) If the minor or the minor's parent, guardian or custodian is found to be indigent and~~  
19 ~~request counsel, the court shall appoint counsel at public expense in the manner provided~~  
20 ~~by law. Where necessary to protect the interest of the minor, the court may appoint~~  
21 ~~counsel without the request of the minor or parent, guardian or custodian.~~

22 ~~(c) If the parent, guardian or custodian of a minor is found not to be indigent, but does~~  
23 ~~not or will not retain counsel for the minor and the minor has no means to retain counsel,~~  
24 ~~the court may appoint counsel at public expense. However, the court may order, after~~  
25 ~~giving the parent, guardian or custodian reasonable opportunity to be heard, that the~~

26 ~~parent, guardian or custodian reimburse the county for the cost of appointed counsel, in~~  
27 ~~whole or in part, depending on ability to pay.~~

28 (db) Parties other than the minor have the right to be represented by counsel retained by  
29 them and to participate as provided in these rules.

30 ~~(e) A minor 14 years of age and older is presumed capable of intelligently comprehending~~  
31 ~~and waiving the minor's right to counsel as above and may do so where the court finds~~  
32 ~~such waiver to be knowing and voluntary, whether the minor's parent, guardian or~~  
33 ~~custodian is present. A child under 14 years of age may not waive such rights outside of~~  
34 ~~the presence of the child's parent, guardian or custodian.~~

35 (c) A minor may not waive the right to counsel before:

36 (1) the minor has consulted with counsel; and

37 (2) the court is satisfied that in light of the minor's unique circumstances and  
38 attributes:

39 (A) the minor's waiver is knowing and voluntary; and

40 (B) the minor understands the consequences of the waiver.

41 *Effective September 1, 2021*