

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 78A-6-
3 103 shall be advised of the following rights:

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

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

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

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

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

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

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

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

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

21 ~~(c) If the parent, guardian or custodian of a minor is found not to be indigent, but does~~
22 ~~not or will not retain counsel for the minor and the minor has no means to retain counsel,~~
23 ~~the court may appoint counsel at public expense. However, the court may order, after~~
24 ~~giving the parent, guardian or custodian reasonable opportunity to be heard, that the~~
25 ~~parent, guardian or custodian reimburse the county for the cost of appointed counsel, in~~
26 ~~whole or in part, depending on ability to pay.~~

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

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

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

35 ~~(1) the minor has consulted with counsel; and~~

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

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

39 ~~(B) the minor understands the consequences of the waiver.~~