

California Peace Officers Legal Sourcebook

WELFARE & INSTITUTIONS CODE § 625.6 (SB 395)

Fact Sheet

Effective January 1, 2018, new Welfare and Institutions Code section 625.6 mandates that juveniles under the age of 16 consult with counsel prior to custodial interrogation and prior to any Miranda waivers. The requirements of § 625.6 are discussed in Chapters 7-III-H and 14-IV-A. This "Fact Sheet" is provided as a quick reference for the aspects of the new law that affect law enforcement interrogations of juveniles age 15 or younger.

Text of § 625.6:

- (a) Prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth 15 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived.
- (b) The court shall, in adjudicating the admissibility of statements of a youth 15 years of age or younger made during or after a custodial interrogation, consider the effect of failure to comply with subdivision (a).
- (c) This section does not apply to the admissibility of statements of a youth 15 years of age or younger if both of the following criteria are met:
 - (1) The officer who questioned the youth reasonably believed the information he or she sought was necessary to protect life or property from an imminent threat.
 - (2) The officer's questions were limited to those questions that were reasonably necessary to obtain that information.
- (d) This section does not require a probation officer to comply with subdivision (a) in the normal performance of his or her duties under Section 625, 627.5, or 628. . . .

• **Exceptions**

As provided, if you believe that the information you seek is necessary to protect life or property from an imminent threat, you may ask questions limited to what is necessary to obtain the information.

Probation officers are not required to provide a consultation with counsel if their questions fall within the normal duties identified in Welfare and Institutions Code sections 625, 627.5, and 628.

• **Remedy for Noncompliance**

If there is a failure to provide a juvenile 15 years or younger a consultation with counsel prior to custodial interrogation "and before the waiver of any Miranda rights," the trial court or juvenile court will "consider the effect" of that failure. Suppression of the juvenile's statements is not mandated, although the court considering the effect of not providing a consultation with counsel may find that the statements are inadmissible.

It is important to understand that this is a state statute and not a revision of the Miranda rules pertaining to juvenile suspects. All officers must still comply with the decisions from the U.S. Supreme Court interpreting Miranda. This statute imposes an additional obligation on officers.

It is also important to note that noncompliance does not amount to a violation of Miranda or a violation of either the U.S. or California Constitutions. The enabling legislation--SB 395 (2017-18)--did not obtain sufficient votes in the Assembly (46 ayes/28 noes) for a two-thirds supermajority necessary to revise the State Constitution. (Proposition 8 "Right to Truth in Evidence" does not allow the suppression of relevant evidence unless suppression is mandated by the federal Constitution.)