

PROPOSED CHANGE TO OHIO RULE OF JUVENILE PROCEDURE 3

- (A) All children in delinquency and status offense cases shall be appointed counsel at the earliest stage of the proceedings in order for the child to have a meaningful opportunity to consult with the lawyer.
- (B) The court shall not allow any waiver of counsel unless the child has met privately with appointed counsel to discuss the child's right to counsel and the disadvantages of self-representation.
- (C) A child's right to be represented by counsel may not be waived in the following circumstances:
- (1) When a child is being detained pending adjudication;
 - (2) at a hearing conducted pursuant to Juv.R. 30;
 - (3) when a serious youthful offender dispositional sentence has been requested; or
 - (4) when there is a conflict or disagreement between the child and the parent, guardian, or custodian; or if the parent, guardian, or custodian requests that the child be removed from the home.
- (D) In all other cases, Any any waiver of the right to counsel shall be made in open court, recorded, in the presence of the child's lawyer, and in writing. The court shall advise the child of the right to counsel and the dangers of self-representation. In determining whether a child has knowingly, intelligently, and voluntarily waived the right to counsel, the court shall look to the totality of the circumstances including, but not limited to: the child's age; intelligence; education; background and experience generally and in the court system specifically; the child's emotional stability; and the complexity of the proceedings. The Court shall ensure that a child consults with a parent, custodian, guardian, or guardian ad litem, before any waiver of counsel. However, no parent, guardian, custodian, or other person may waive the child's right to counsel.
- (E) Children are presumed indigent and thus entitled to the appointment of counsel at state expense without regard to the income of the child's parent, guardian, or custodian.
- (F) Other rights of a child may be waived with permission of the court.
- ~~(G) If a child is facing the potential loss of liberty, the child shall be informed on the record of the child's right to counsel and the disadvantages of self-representation.~~
- ~~(H) If a child is charged with a felony offense, the court shall not allow any waiver of counsel unless the child has met privately with an attorney to discuss the child's right to counsel and the disadvantages of self-representation.~~