

# The Juvenile's Age And His Rights

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We originally developed this Guide for our pals, the Special Agents of the North Carolina State Bureau of Investigation. Together, Ralph and I did quite a bit of in-service training for that exceptional agency over the years. The Bureau stated that they could benefit from a quick reference guide regarding juvenile rights, and we provided this outline for them.

This "Juvenile's Age Guide" has become popular in many local law enforcement agencies, as patrol officers and investigators interact with juveniles now more than ever. We have never included case law citations or statutory references in any edition of this outline for the purpose of keeping it brief and reader-friendly. [Note that we discuss interrogation and procedural law separately to fully cover juvenile rights in both contexts.]

## 1. THE AGE OF THE JUVENILE: PART 1 - PROCEDURALLY

**FROM BIRTH THROUGH THE FIFTH YEAR:** Juvenile court has NO jurisdiction and the child may not be brought before the court by petition, charge, warrant, order, or indictment! You may not petition the court or "charge" the child no matter what his behavior has been. You must proceed against the child considering his age at the time of the behavior, not later when the behavior is discovered. Thus, if he does something very bad when he is 5 years old, and you discover it when he is 6 years old, you may not petition the court for a determination of delinquency.

**FROM THE SIXTH YEAR THROUGH THE TWELFTH YEAR:** Juvenile court now has jurisdiction and you may petition the court for a determination of delinquency. However, no matter how serious the offense, there can be no transfer of the matter to superior court for trial as an adult. Thus, a 12 year old who commits a first degree murder must have a hearing only in juvenile court to determine delinquency, and his punishment will be no greater than custody in a training school until his 18th birthday (except for very serious felonies like murder where he may be held up to his 21st birthday). **WARNING:** it is now clear that if a child 12 years of age or less commits a felonious act, and that matter is not discovered until he is 18 years of age or older, he may never be prosecuted for that behavior. There is, in effect, a statute of limitations for acts committed by children before their thirteenth birthday: they may be taken to juvenile court in this situation only before their eighteenth birthday.



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**AGES THIRTEEN, FOURTEEN, FIFTEEN:** Children this age will find all their matters originally heard in juvenile court, but felonies may be transferred to superior court at the discretion of the juvenile court judge. If a case is transferred to superior court the child will be treated in all respects as an adult (except confinement will be in a juvenile facility). NOTE: it is now clear that if a child 13, 14, or 15 years of age commits a felonious act, and that matter is not discovered until he is 18 years of age or older, he may be brought before juvenile court as an adult for a determination, not of delinquency, but whether the matter will be dismissed or transferred to superior court for trial.

**SIXTEEN AND SEVENTEEN YEARS OF AGE:** in a criminal case, the child is treated as an adult in all respects except for *Miranda*, capital punishment, and confinement.

**EIGHTEEN YEARS OF AGE:** He is an adult now for both civil and criminal purposes; if a he commits first-degree murder on or after his eighteenth birthday, he may suffer capital punishment for his act. When he is confined to the prison system for any criminal conviction he will be housed at a special youth detention center until his twenty-first birthday; he will be then transferred to Central Prison or some other adult prison unit.

## **2. THE AGE OF THE JUVENILE: PART 2 *MIRANDA***

**FROM AGE SIX THROUGH AGE THIRTEEN:** The child is entitled to a warning of his interrogation rights listed in N.C.G.S. 7B-2101(a) during a custodial interrogation. A child in custody who has not reached his fourteenth birthday cannot be questioned unless either a parent, guardian, custodian, or attorney is present at the time of the questioning; there can be no waiver of this right by the child until he is fourteen years old or older. However, at this age he may waive all other interrogation rights.

**FROM AGE FOURTEEN THROUGH AGE FIFTEEN:** The child is entitled to a warning of his interrogation rights listed in N.C.G.S. 7B-2101(a) during a custodial interrogation. The child may now waive his right to have a parent, guardian, custodian, or attorney present during questioning. He may waive all other interrogation rights, as well.

**FROM AGE SIXTEEN THROUGH AGE SEVENTEEN:** A child in custody who is sixteen or seventeen years old is still entitled to the warning of his interrogation rights listed in N.C.G.S. 7B-2101(a) during a custodial interrogation. It does not matter that a juvenile at this age must be prosecuted as an adult; he is still entitled to the juvenile version of the interrogation rights. He may waive all interrogation rights. There are three exceptions to the juvenile interrogation warnings at this age, and if any of the following applies to the juvenile, he is no longer entitled to the juvenile rights warnings (though, you may wish to use them, as opposed to the adult rights, in an abundance of caution): At the time the crime was committed, he was (1) married, or (2) a member of the armed forces, or (3) emancipated. [NOTE: emancipation is a legal determination made by the court, with an order of emancipation signed by a judge. See Article 35 of Chapter 7B.]

**FROM AGE EIGHTEEN UNTIL...** he is now an adult for purposes of his interrogation rights.

**BONUS:** If you or the members of your agency need an updated interrogation warning and wavier card, with both the adult and juvenile interrogation rights listed, please contact our law firm for your personal copy or copies. There is no charge, and we will ship them directly to you. By the way, we are now receiving more requests since the deletion of Ralph's photo from the card. Reece



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