

Article - Courts and Judicial Proceedings

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§3-8A-20.

(a) Except as provided in subsection (d) of this section, a party is entitled to the assistance of counsel at every stage of any proceeding under this subtitle.

(b) (1) Except as provided in paragraph (3) of this subsection, a child may not waive the right to the assistance of counsel in a proceeding under this subtitle.

(2) A parent, guardian, or custodian of a child may not waive the child's right to the assistance of counsel.

(3) After a petition or citation has been filed with the court under this subtitle, if a child indicates a desire to waive the right to the assistance of counsel, the court may not accept the waiver unless:

(i) The child is in the presence of counsel and has consulted with counsel; and

(ii) The court determines that the waiver is knowing and voluntary.

(4) In determining whether the waiver is knowing and voluntary, the court shall consider, after appropriate questioning in open court and on the record, whether the child fully comprehends:

(i) The nature of the allegations and the proceedings, and the range of allowable dispositions;

(ii) That counsel may be of assistance in determining and presenting any defenses to the allegations of the petition, or other mitigating circumstances;

(iii) That the right to the assistance of counsel in a delinquency case, or a child in need of supervision case, includes the right to the prompt assignment of an attorney, without charge to the child if the child is financially unable to obtain private counsel;

(iv) That even if the child intends not to contest the charge or proceeding, counsel may be of substantial assistance in developing and presenting material that could affect the disposition; and

(v) That among the child's rights at any hearing are the right to call witnesses on the child's behalf, the right to confront and cross-examine witnesses, the right to obtain witnesses by compulsory process, and the right to require proof of any charges.

(c) Compensation for the services of an attorney appointed to represent a child

in an action under this subtitle may be assessed by the court against any party or against a parent of the child.

(d) (1) A party is not entitled to the assistance of counsel at a peace order proceeding.

(2) Paragraph (1) of this subsection does not affect the entitlement of a respondent to the assistance of counsel in a contempt proceeding as provided by law.

(e) (1) Unless the case is dismissed, if a child appears in court without counsel for a waiver hearing under § 3–8A–06 of this subtitle, or an adjudicatory hearing under § 3–8A–18 of this subtitle, and the child has not previously waived the right to the assistance of counsel in accordance with subsection (b) of this section, the court shall continue and the clerk shall reschedule the waiver or adjudicatory hearing.

(2) The clerk shall issue a notice of the date, time, and location of the hearing at least 10 days prior to the date of the hearing.

(3) (i) The Office of the Public Defender shall enter an appearance for the child.

(ii) After entry of its appearance, the Office of the Public Defender shall verify eligibility for continued public defender representation in accordance with § 16–210 of the Criminal Procedure Article and the Maryland Rules.

(4) The continuance of a waiver or adjudicatory hearing under this subsection may not be a basis for detaining the child under § 3–8A–15 of this subtitle.

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