



N C Y L

# Senate Bill 203 – Miranda Protections for Youth

## *A Guide for Schools*

The Miranda Protections for Youth Bill protects the constitutional rights of young people in relation to custodial interrogations by law enforcement. Youth have the same constitutional rights as adults during custodial interrogations. However, in emotionally charged situations, especially circumstances that include fear and intimidation such as police interrogations, youth do not have the same ability as adults to fully appreciate complex constitutional rights and the consequences of waiving them. Many youth give up their rights without understanding what it means to do so. The Miranda Protections for Youth Bill provides safeguards to prevent the criminalization of students on school campuses and in their communities by ensuring that youth understand their constitutional rights before giving them up. Schools can play an important role in supporting the implementation of this law and ensuring that students' rights are protected.

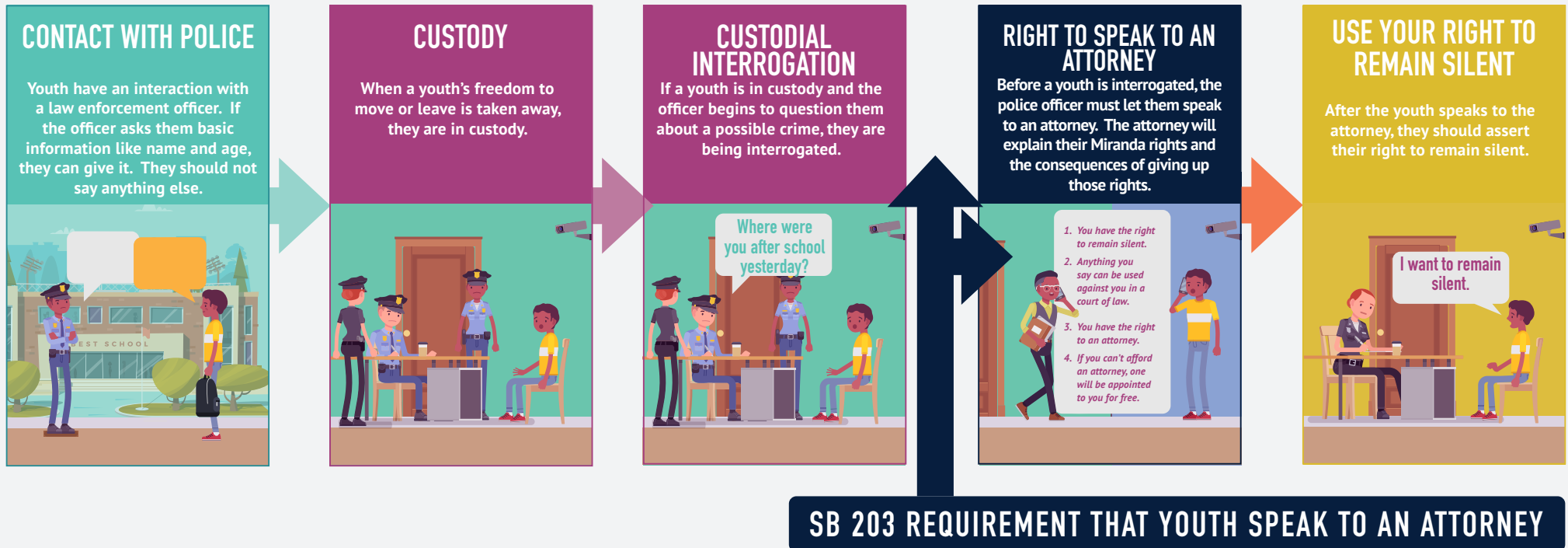
### What is SB 203?

Effective January 1, 2021, all students under the age of 18 must consult with an attorney in person, by telephone, or by video conference prior to a custodial interrogation and waiver of Miranda rights. This includes custodial interrogations that occur on school campuses. The consultation may not be waived.<sup>[1]</sup>



## What Is a Custodial Interrogation?

- > A person is in custody when they are deprived of their freedom in any significant way or when they have a reasonable belief that they are not free to leave. They do not have to be under arrest.
- > A person is interrogated when a law enforcement officer directly questions them or makes comments or actions the officer should know are likely to produce an incriminating response. This can also include when a student is questioned by a School Resource Officer (SRO) or a law enforcement officer that comes onto campus.



## Examples of Custody

Youth do not need to be in handcuffs, in a police car, or in a police station to be in custody.

- > Youth can be in custody on a sidewalk, inside a building, or anywhere else where they do not feel like they can leave.
- > A student can be in the school principal's office with a police officer blocking their path to leave the room.
- > A student can be at a public park with police officers surrounding them, limiting their ability to leave.

## What are Miranda Rights?

1. You have the right to **remain silent**.
2. Anything you say can be **used against you** in a court of law.
3. You have the right to an **attorney**.
4. If you can't afford an attorney, one will be appointed to you for **free**.



**CONSTITUTIONAL  
RIGHTS**



## Why is SB 203 important?

Research on adolescent development indicates that in high stress situations, like custodial interrogations, students may have difficulty understanding complex legal concepts, such as their constitutional rights and the consequences of waiving those rights.<sup>[1]</sup> Further, youth in such high stress situations are more likely than adults to make a false confession, and not understand that what they say can lead to an arrest and prosecution. A recent study of exonerations found that 42 percent of innocent youth falsely confessed, compared to 13% of adults.<sup>[2]</sup> The Miranda Protections for Youth Bill ensures that students have meaningful access to understanding and asserting their constitutional rights, as well as understanding the consequences of waiving those rights by requiring them to consult with an attorney prior to speaking with police.

[1] Megan Glynn Crane, *Childhood Trauma's Lurking Presence in the Juvenile Interrogation Room and the Need for A Trauma-Informed Voluntariness Test for Juvenile Confessions*, 62 S.D. L. Rev. 626, 627 (2017)

[2] Gross, Samuel R. and Jacoby, Kristen and Matheson, Daniel J. and Montgomery, Nicholas and Patil, Sujata, *Exonerations in the United States, 1989 Through 2003*. Journal of Criminal Law and Criminology, Vol. 95, No. 2, 2005, Available at SSRN: <https://ssrn.com/abstract=753084>



## What Steps Need to be Followed if a Student is Interrogated by Law Enforcement?

1. The law enforcement officer must call the Public Defender's office (or defense counsel contracted by the county) and let the student speak to an attorney before they are questioned.
2. The consultation with the attorney must be private and may take place in person or via telephone or video conference. It may not be recorded.
3. The attorney will explain to the student their Miranda Rights and what the consequences are of waiving their right to remain silent.
4. The student can ask the attorney any questions they have about their Miranda rights and share any concerns.
5. After the attorney speaks to the student, the law enforcement officer must read their Miranda Rights if they want to question the student.
6. If the youth says they want to remain silent, questioning must cease.



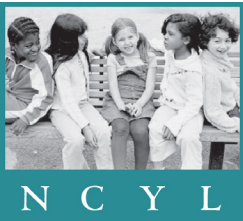


## SUGGESTIONS FOR SCHOOLS

SB 203 ensures that youth's rights are protected in their interactions with law enforcement. Actions by schools can either bolster these important protections or undermine them.

### How Schools Can Support the Implementation of SB 203:

- > **Only involve law enforcement when absolutely necessary.** If a situation occurs that can be dealt with internally, do everything possible to resolve it without contacting law enforcement.
- > **Ensure youth speak to an attorney before questioning by law enforcement occurs.** If students are going to be questioned on school campuses for the purpose of gathering incriminating information regarding a possible crime, schools have a duty to ensure their students' rights are protected and SB 203 is followed.
- > **Be mindful of how the actions of administrators and teachers can bolster or undermine the law and the trust of students they serve.** To ensure that schools are bolstering the constitutional protections afforded to students, schools should refrain from sharing any incriminating information with law enforcement that the student may have shared with trusted school staff or school administrators.
- > **Ensure that school staff and SROs are aware of and follow the requirements under this law.** Provide training and information to school administrators and staff on the law.
- > **Provide support to students and families.** Prior to a student being interrogated at school, notify their parent/s or guardian/s. Ensure interactions between police and students happen in a private place.
- > **Share the SB 203 Info Sheet for Youth with students and their families.**



For more information or to ask questions,  
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