
SB 203 Extends and Expands Protections to Juveniles relating to Custodial Interrogations

June 1, 2021
Number 9

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Senate Bill (SB) 203, signed into law by Governor Gavin Newsom in late 2020, amended Welfare and Institutions Code section 625.6, relating to custodial interrogations of minors. Prior to the amendments, section 625.6 required law enforcement to ensure any youth aged 15 years or younger is provided with consultation with legal counsel prior to law enforcement engaging the youth in a custodial interrogation. This consultation may not be waived by either the youth or their parents. (See [2017 Client News Brief No. 78.](#))

SB 203's amendments broadened the scope of section 625.6 to all minors seventeen (17) years of age or younger. The bill also removed the sunset provision of the previous protections, which were set to expire in 2025, making them permanent. The State Legislature made findings in SB 203 that give reference to the need to provide children with additional protections within the legal system due to the psychological vulnerabilities of children in a custodial setting. The goal of the State Legislature in passing SB 203 was to provide minors with legal consultation prior to custodial interrogation and prior to making a waiver of their rights under *Miranda*.

The implication of failing to provide a minor with legal consultation prior to custodial interrogation is that a court must take into consideration any willful violation of the section by a law enforcement officer in determining that officer's credibility under the Evidence Code. This consideration seeks to prevent officers from violating the section, since the credibility of the officer's statements would then be under the scrutiny of the court.

Takeaways

SB 203 went into effect on January 1, 2021. As noted above, law enforcement agencies need to be aware of the extended protections provided to minors prior to custodial interrogation taking place. While an adult individual can typically waive their rights under *Miranda*, pursuant to SB 203, a minor cannot waive their *Miranda* rights or be subjected to a custodial interrogation until they are provided with a legal consultation,

and this consultation may not be waived. Failing to abide by SB 203 could potentially result in any testimony relating to the custodial interrogation of a minor being thrown out for lack of credibility.

The changes provided by SB 203 affect not only local law enforcement, but also officers employed or working on behalf of local educational agencies. The provisions of section 625.6, however, are not required for student interviews conducted by school administrators. The provisions of SB 203 cover potential criminal misconduct occurring on school campuses, when students are interviewed by a district police department officer or school resource officers (SRO). A failure to provide an attorney consultation in these settings may affect the use of statements in a court proceeding. While such a failure would likely not prevent statements from being used in relation to student disciplinary proceedings, where the formal rules of evidence would not apply, we recommend consulting with legal counsel before using such statements.

Local educational agencies and law enforcement agencies should consider reviewing their practices regarding when a law enforcement officer or SRO becomes involved with investigations of student misconduct and custodial interrogation of minors.

If you have any questions about this bill and its effect on law enforcement or local educational agencies, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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