

## **Proposed Rule Amendment– Right to Counsel in Juvenile Court Delinquency Proceedings**

**(A) Right to Counsel.** A child charged with a delinquent act is entitled to the representation of counsel at all stages of proceedings.

**(B) Appointment of Counsel.** Counsel shall be appointed prior to the detention hearing or initial hearing, whichever occurs first.

**(C) Waiver.** No child may waive his or her right to counsel without first engaging in meaningful consultation with counsel. Any waiver must be made in open court, on the record and confirmed in writing, and in the presence of the child’s attorney.

In determining whether a waiver of rights has been made knowingly and voluntarily, the court shall consider the totality of the circumstances, including, at minimum, the following factors:

(1) the child’s physical, mental, and emotional maturity;

(2) the educational background of the child;

(3) the child’s emotional stability;

(4) the child’s experiences generally and in the courts system specifically;

(5) the complexity of the proceedings;

(6) whether the child comprehends the nature of the charges against him or her and the range of possible dispositions; and

(7) whether the child comprehends the dangers and disadvantages of proceeding without counsel, especially that proceedings without counsel is almost always unwise and will work to his or her own detriment.

**(D) Withdrawing Waiver.** Waiver of the right to counsel may be withdrawn at any stage of a proceeding, in which event the court shall appoint counsel for the juvenile if otherwise required by statute.