

upon taking of evidence, and admissibility of statements by a juvenile in subsequent criminal prosecution, and substituting provision relating to consent upon advice of counsel for treatment as an adult, for provision requiring consent for treatment as a juvenile.

§ 5033. Custody prior to appearance before magistrate judge

Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensive to a juvenile, and shall immediately notify the Attorney General and the juvenile's parents, guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

The juvenile shall be taken before a magistrate judge forthwith. In no event shall the juvenile be detained for longer than a reasonable period of time before being brought before a magistrate judge.

(June 25, 1948, ch. 645, 62 Stat. 857; Pub. L. 93-415, title V, § 503, Sept. 7, 1974, 88 Stat. 1135; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 922, 923 (June 16, 1938, ch. 486, §§ 2, 3, 52 Stat. 765).

This section consolidates said section 923, and the final sentence of said section 922, of title 18, U.S.C., 1940 ed., with such changes of phraseology as were necessary to effect the consolidation.

This revised section and section 5032 of this title were rewritten to make clear the legislative intent that a juvenile delinquency proceeding shall result in the adjudication of a status rather than the conviction of a crime.

The other provisions of said section 922 are incorporated in section 5032 of this title.

CODIFICATION

Another section 503 of title V of Pub. L. 93-415, as added by Pub. L. 107-273, div. C, title II, § 12222(a), Nov. 2, 2002, 116 Stat. 1894, is classified to section 5782 of Title 42, The Public Health and Welfare.

Another section 503 of title V of Pub. L. 93-415, as added by Pub. L. 102-586, § 5(a), Nov. 4, 1992, 106 Stat. 5027, was classified to section 5782 of Title 42, The Public Health and Welfare, prior to the general amendment of that title V by Pub. L. 107-273.

AMENDMENTS

1974—Pub. L. 93-415 amended section generally, substituting "Custody prior to appearance before magistrate", for "Jurisdiction; written consent; jury trial precluded" in section catchline, and substituting provisions relating to advice of rights by arresting officer, notification of Attorney General, parents, guardian or custodian, and appearance before magistrate, for provisions relating to jurisdiction of district courts, jury, consent by juvenile, and appraisal of rights by Judge of District Court.

CHANGE OF NAME

Words "magistrate judge" substituted for "magistrate" in catchline and wherever appearing in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 5034. Duties of magistrate judge

The magistrate judge shall insure that the juvenile is represented by counsel before proceed-

ing with critical stages of the proceedings. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate representation. In cases where the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate judge may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

The magistrate judge may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the magistrate judge has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

If the juvenile has not been discharged before his initial appearance before the magistrate judge, the magistrate judge shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate judge determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to insure his safety or that of others.

(June 25, 1948, ch. 645, 62 Stat. 858; Pub. L. 87-428, Mar. 31, 1962, 76 Stat. 52; Pub. L. 93-415, title V, § 504, Sept. 7, 1974, 88 Stat. 1135; Pub. L. 100-690, title VII, § 7045, Nov. 18, 1988, 102 Stat. 4400; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 924 (June 16, 1938, ch. 486, § 4, 52 Stat. 765).

The words "foster homes" were inserted to remove any doubt as to the authority to commit to such foster homes in accordance with past and present administrative practice.

The reference to particular sections dealing with probation was omitted as unnecessary.

Changes were made in phraseology and arrangement.

CODIFICATION

Another section 504 of title V of Pub. L. 93-415, as added by Pub. L. 107-273, div. C, title II, § 12222(a), Nov. 2, 2002, 116 Stat. 1895, is classified to section 5783 of Title 42, The Public Health and Welfare.

Another section 504 of title V of Pub. L. 93-415, as added by Pub. L. 102-586, § 5(a), Nov. 4, 1992, 106 Stat. 5027, was classified to section 5783 of Title 42, The Public Health and Welfare, prior to the general amendment of that title V by Pub. L. 107-273.

AMENDMENTS

1988—Pub. L. 100-690 substituted "facility) upon" for "facility upon" in last par.

1974—Pub. L. 93-415 amended section generally, substituting "Duties of magistrate", for "Probation; commitment to custody of Attorney General; support" in section catchline, and substituting provisions relating to procedure before, and duties of, magistrate, for provisions relating to probation, commitment to custody of Attorney General, duties of Attorney General, and procedures aiding court in determining whether to