Rule 27A. Admissibility of statements given by minors.

- 2 (a) If a minor is in custody for the alleged commission of an offense that would be a crime if
- 3 committed by an adult, any statement given by a minor in response to questions asked by a
- 4 police officer is inadmissible unless the police officer informed the minor of the minor's rights
- 5 before questioning begins.

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- $\frac{(a)(1)(b)}{(b)}$ If the child is under 14 years of age, the child is presumed not adequately mature
- 7 and experienced to knowingly and voluntarily waive or understand a child's rights unless a
- 8 parent, guardian, or legal custodian is present during waiver.
- 9 (a)(2) If the minor is 14 years of age or older, the minor is presumed capable of knowingly
- 10 and voluntarily waiving the minor's rights without the benefit of having a parent, guardian, or
- 11 legal custodian present during questioning.
- 12 $\frac{\text{(b)(c)}}{\text{The presumptions}}$ outlined in paragraphs $\frac{\text{(a)(1)}}{\text{and (a)(2)}}$ $\frac{\text{(b)}}{\text{(b)}}$ may be overcome by a
- preponderance of the evidence showing the ability or inability of a minor child to comprehend
- and waive the minor's child's rights.
- 15 (d) The state shall retain the burden of proving that the waiver of the minor's rights was
- 16 <u>knowing and voluntary regardless of the age of the child or minor.</u>

17 Advisory Committee Notes

- 18 This rule is intended to recognize the right to counsel, and the right against self-incrimination as
- 19 established by statute, constitution, or caselaw.
- Effective Date: May 1, 2020