

## Due Process Rights of Children Involved in Delinquency Proceedings

Although children are not afforded all due process rights in family court delinquency proceedings that are available to adults accused of crimes, they are afforded several key rights during the adjudicatory stage. These rights include the right to notice of the charges, the right to an attorney, the right to remain silent (privilege against self-incrimination), and the right to confront and cross-examine witnesses. See *In re Gault*, 387 U.S. 1, (1967). Children, like adults, are also constitutionally entitled to proof beyond reasonable doubt when they are charged with violation of criminal law. *In re Winship*, 397 U.S. 358, (1970).

South Carolina law also specifically addresses a child's due process rights to counsel and notice. Under § 63-19-1030, in cases where the delinquency proceedings may result in commitment to an institution in which the child's freedom is curtailed:

- The child or child's parents or guardian must be given written notice stating the specific charge or factual allegations to be considered at the hearing.
- The notice must be given as soon as practicable and sufficiently in advance to permit preparation.
- The child or child's parent or guardian also must be advised in the notice of their right to be represented by counsel and that, if unable to employ counsel, counsel will be appointed to represent them.
- In the hearing, the parent and child also must be expressly informed of their right to counsel and must be specifically required to consider whether they do or do not waive the right of counsel.