

SENATE BILL 22

E2

3lr0959

(PRE-FILED)

By: **Senator Sydnor**

Requested: November 19, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Custodial Interrogation – Codification**

3 FOR the purpose of altering a certain definition of “custodial interrogation”; specifying that
4 a statement made by a person during custodial interrogation is not admissible in a
5 criminal proceeding unless the person is advised of certain information; specifying
6 that a statement made by a person who is arrested is not admissible in a criminal
7 proceeding, except under certain circumstances; and generally relating to custodial
8 interrogation.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Procedure
11 Section 2–401
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2022 Supplement)

14 BY adding to
15 Article – Criminal Procedure
16 Section 2–401.1
17 Annotated Code of Maryland
18 (2018 Replacement Volume and 2022 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Criminal Procedure**

22 2–401.

23 In this subtitle, “custodial interrogation” [retains its judicially determined meaning]

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 MEANS QUESTIONING, BY A LAW ENFORCEMENT OFFICER, OF A PERSON WHO:

2 (1) IS DETAINED;

3 (2) IS ARRESTED; OR

4 (3) HAS A REASONABLE BELIEF THAT THE PERSON IS NOT FREE TO
5 LEAVE THE ENCOUNTER WITH THE LAW ENFORCEMENT OFFICER.

6 **2-401.1.**

7 (A) A STATEMENT MADE BY A PERSON DURING CUSTODIAL INTERROGATION
8 IS NOT ADMISSIBLE IN A CRIMINAL PROCEEDING UNLESS THE PERSON WHO MADE
9 THE STATEMENT IS ADVISED THAT:

10 (1) THE PERSON HAS THE RIGHT TO REMAIN SILENT;

11 (2) ANY STATEMENT MADE BY THE PERSON DURING CUSTODIAL
12 INTERROGATION MAY BE USED AGAINST THE PERSON IN A CRIMINAL PROCEEDING
13 FOR THE PURPOSE OF PROVING THE COMMISSION OF A CRIME; AND

14 (3) THE PERSON HAS THE RIGHT TO SPEAK TO AN ATTORNEY BEFORE
15 ANY QUESTIONING.

16 (B) A STATEMENT MADE BY A PERSON WHO IS ARRESTED IS NOT
17 ADMISSIBLE IN A CRIMINAL PROCEEDING UNLESS:

18 (1) THE PERSON HAS SIGNED A WRITTEN NOTICE OF THE ADVICE
19 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION; OR

20 (2) (I) THE PERSON HAS BEEN ADVISED AS REQUIRED UNDER
21 SUBSECTION (A) OF THIS SECTION;

22 (II) THE PERSON REFUSES TO SIGN THE WRITTEN NOTICE
23 DESCRIBED IN ITEM (1) OF THIS SUBSECTION; AND

24 (III) THE ADVICE AND REFUSAL ARE DOCUMENTED BY VIDEO OR
25 AUDIO RECORDING.

26 (C) THIS SECTION MAY NOT BE CONSTRUED TO NULLIFY ANY PROTECTION
27 AFFORDED BY ANY OTHER LAW OR THE MARYLAND RULES.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2023.