

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Mary Ellen Barbera  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 593  
Juvenile Law – Child Interrogation Protection Act  
**DATE:** February 5, 2020  
(2/19)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 593. This bill would amend Courts and Judicial Proceedings Article (CJP) by amending § 3-8A-14, (concerning children taken into custody) and adding a new § 3-8A-14.2 concerning “custodial interrogation”. The bill also would amend Criminal Procedure (CP) Article by amending § 2-108 (concerning the notification requirements when a law enforcement officer charges a minor with a criminal offense or takes a minor into custody) and by adding a new § 2-405 concerning the custodial interrogation of a minor.

This bill also requires the Court of Appeals to adopt certain rules concerning age-appropriate language to be used to advise a child who is taken into custody. This provision raises separation of power concerns and the Judiciary questions whether the legislature has the authority to direct the Court of Appeals to adopt rules pursuant to Article 8 of the Maryland Declaration of Rights and Article IV, Section 18 of the Constitution.

This directive also concerns language that law enforcement officers must use upon taking a child into custody and prior to any interrogation of the child, which likely will be before any court proceeding has commenced. The Court’s rule-making authority under Art. IV, Sec. 18 of the Constitution is limited to practice and procedure in, or the administration of, the courts, not the administration of police proceedings or interrogations. The notice should be in child-appropriate language, and a court ultimately may have to determine whether what was said sufficed to give the required notice, just like it does with standard *Miranda* warnings or advice required to be given to motorists regarding submitting to a breath test. Rule 4-213.1 does require that judicial officers give specific advice to defendants at an initial appearance, but that occurs at a judicial proceeding before a judicial officer. The form of Notice required by this bill, if there is to be one, should be drafted by an executive branch agency, not the Court of Appeals.

cc. Hon. Jill Carter  
Judicial Council  
Legislative Committee  
Kelley O'Connor