

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



To: Chair Senator Will Smith and Judicial Proceedings Committee members
From: Jenny Zito, MAJR executive committee

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Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) strongly supports “The Juvenile Interrogation Protection Act” (HB 0269 / SB 0053).

The Sixth Amendment states that in “all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defense.” In 1967’s “In re Gault,” the U.S. Supreme Court recognized that due process rights for juveniles should include the opportunity to consult with legal counsel because juveniles are particularly vulnerable. Absent adult advice, juveniles rarely understand the potentially life-long consequences of a criminal record. For example, certain delinquency adjudications may result in deportation, barriers to employment, or removal from school or public housing [Henning].

Unfortunately, youth and inexperience make it much more likely for juveniles to agree to waive their right to counsel, especially in the context of interrogation. Juveniles are more vulnerable to interrogative pressure than adults [Richardson et al.]. It is much more common for juveniles to accept responsibility for an act they did not do than adults [RedlichGoodman]. A 2005 study of 340 exonerated individuals found that juvenile exonerees were three times as likely as adults to have given false confessions [Gross et al.].

Current Maryland statutes and precedents provide that reasonable efforts should be made to notify a parent of the child's arrest and that the child should be Mirandized, but do not provide a bright-line rule against non-emergency interrogations without an attorney's advice [McIntyre v. State]. HB 269/SB 53 also makes state policy more clear by creating a rebuttable presumption against admission of statements taken in violation of the law.

This bill is supported by Baltimore City State's Attorney Marilyn Mosby and Prince George's County State's Attorney Aisha Braveboy [Weill-Greenberg].

Other states' examples: California has passed a bill that requires people under 18 must be allowed to speak with an attorney before an interrogation can commence. Both New York and Washington state have similar bills that are under consideration by their legislatures this year.

References:

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PLEASE NOTE: An expanded version of the content of this testimony is available at <https://www.ma4jr.org/juvenile-interrogation> with hyperlinks to all references.