

HB0315/372913/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 315

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 7, after “and” insert “an effort to provide”; in the same line, strike “has been provided”; in line 8, after “custodian” insert “has been made”; in line 9, after “confidential” insert “and in accordance with the Maryland Rules of Professional Conduct”; strike beginning with “proceeded” in line 13 down through “charged” in line 14 and substitute “taken into custody as a child or”; in line 15, strike “a certain record;” and substitute “certain records; requiring that an attorney provide a law enforcement officer with certain information;”; strike beginning with “statements” in line 15 down through “evidence” in line 16 and substitute “a law enforcement officer may conduct an otherwise lawful custodial interrogation of a child”; in lines 16 and 17 strike “requiring the Police Training and Standards Commission” and substitute “authorizing the Court of Appeals”; and in line 21, after “manner;” insert “requiring that an interrogation of a child be recorded under certain circumstances; establishing certain standards for the recording of the interrogation of a child under certain circumstances; requiring that a child be notified of the recording of an interrogation of the child under certain circumstances; establishing a certain rebuttable presumption; requiring the Office of the Public Defender to develop and implement certain policies and to publish on its website or make available to law enforcement certain information;”.

AMENDMENT NO. 2

On page 3, in line 30, strike “**POLICE TRAINING AND STANDARDS COMMISSION SHALL**” and substitute “**COURT OF APPEALS MAY**”.

On pages 3 and 4, strike beginning with the colon in line 32 on page 3 down through “**SUBTITLE**” in line 9 on page 4 and substitute “**THE CHILD’S RIGHTS**”.

(Over)

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On page 4, strike beginning with “NOTIFIED” in line 25 down through “NOTIFIED,” in line 26 and substitute “MADE AN EFFORT REASONABLY CALCULATED TO GIVE ACTUAL NOTICE TO”; and strike beginning with “IN” in line 26 down through “NOTICE” in line 27.

On page 5, in line 2, strike “CONFIDENTIAL” and substitute “:

(I) CONDUCTED IN A MANNER CONSISTENT WITH THE MARYLAND RULES OF PROFESSIONAL CONDUCT; AND

(II) CONFIDENTIAL”;

in line 15, after “(F)” insert “(1)”; in lines 19, 22, and 23, strike “(1)”, “(2)”, and “(3)”, respectively, and substitute “(I)”, “(II)”, and “(III)”, respectively; after line 23, insert:

“(2) (I) A LAW ENFORCEMENT AGENCY CONDUCTING AN INTERROGATION UNDER THIS SECTION SHALL MAINTAIN A RECORD OF THE NAME OF THE ATTORNEY CONTACTED AND THE COUNTY OR COUNTIES IN WHICH THE ATTORNEY PROVIDED THE CONSULTATION.

(II) AN ATTORNEY CONTACTED TO PROVIDE LEGAL CONSULTATION TO A CHILD UNDER THIS SUBTITLE SHALL PROVIDE TO A LAW ENFORCEMENT OFFICER THE INFORMATION REQUIRED FOR THE RECORD REQUIRED TO BE MAINTAINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.”;

in line 24, after “(G)”, insert “(1)”; in line 25, strike “STATEMENTS MADE BY A CHILD ARE ADMISSIBLE AS EVIDENCE” and substitute “A LAW ENFORCEMENT OFFICER MAY CONDUCT AN OTHERWISE LAWFUL CUSTODIAL INTERROGATION OF A CHILD”; in line 26, strike “(1)” and substitute “(I)”; and strike beginning with “WHO”

in line 26 down through “WAS” in line 28 and substitute “REASONABLY BELIEVES THAT THE INFORMATION SOUGHT IS”.

On page 6, in line 1, after “INDIVIDUAL” insert “AND A REASONABLE DELAY TO ALLOW THE CHILD TO HAVE LEGAL CONSULTATION WOULD IMPEDE THE ABILITY OF LAW ENFORCEMENT TO SAFEGUARD THE LIFE OF THE THREATENED INDIVIDUAL”; in line 2, strike “(2)” and substitute “(II)”; in line 3, strike “WERE” and substitute “ARE”; in line 4, after “INFORMATION” insert “NECESSARY TO PROTECT THE INDIVIDUAL FROM AN IMMINENT THREAT TO THE LIFE OF THE INDIVIDUAL”; and after line 4, insert:

“(2) (I) UNLESS IT IS IMPOSSIBLE, IMPRACTICABLE, OR UNSAFE TO DO SO, AN INTERROGATION CONDUCTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE RECORDED.

(II) IN A JURISDICTION THAT HAS ADOPTED THE USE OF BODY-WORN DIGITAL RECORDING DEVICES BY LAW ENFORCEMENT OFFICERS, THE INTERROGATION OF A CHILD MAY BE RECORDED USING A BODY-WORN DIGITAL RECORDING DEVICE IN A MANNER THAT IS CONSISTENT WITH DEPARTMENTAL POLICIES REGARDING THE USE OF BODY-WORN DIGITAL RECORDING DEVICES.

(III) IN A JURISDICTION THAT HAS NOT ADOPTED THE USE OF BODY-WORN DIGITAL RECORDING DEVICES, THE INTERROGATION OF A CHILD MAY BE RECORDED USING OTHER VIDEO AND AUDIO RECORDING TECHNOLOGY IN A MANNER THAT IS CONSISTENT WITH ANY POLICIES OF THE LAW ENFORCEMENT AGENCY REGARDING THE USE OF VIDEO AND AUDIO RECORDING TECHNOLOGY.

(IV) A CHILD BEING INTERROGATED UNDER THIS SUBSECTION SHALL BE INFORMED IF THE INTERROGATION IS BEING RECORDED.

(H) THERE IS A REBUTTABLE PRESUMPTION THAT A STATEMENT MADE BY A CHILD DURING A CUSTODIAL INTERROGATION IS INADMISSIBLE IN A DELINQUENCY PROCEEDING OR A CRIMINAL PROSECUTION AGAINST THE CHILD IF A LAW ENFORCEMENT OFFICER WILLFULLY FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

(I) THE OFFICE OF THE PUBLIC DEFENDER SHALL:

(1) DEVELOP AND IMPLEMENT POLICIES TO PROVIDE GUIDANCE AND INSTRUCTION TO ATTORNEYS TO MEET THE REQUIREMENTS OF THIS SECTION; AND

(2) ON OR BEFORE OCTOBER 1, 2021, PUBLISH ON ITS WEBSITE, OR PROVIDE TO LAW ENFORCEMENT ON REQUEST, INFORMATION ON ATTORNEYS AVAILABLE TO ACT AS COUNSEL TO A CHILD IN ACCORDANCE WITH THIS SECTION.”.