

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 593

(Senator Carter, *et al.*)

Judicial Proceedings

Juvenile Law - Child Interrogation Protection Act

This bill prohibits a law enforcement officer from conducting a custodial interrogation of a child until the child has consulted with an attorney and the law enforcement officer has notified, or caused to be notified, the parent, guardian, or custodian of the child in a manner reasonably calculated to provide actual notice that the child will be interrogated. A statement or evidence obtained as a result of a violation of these provisions is inadmissible as evidence in any legal action involving the child.

Fiscal Summary

State Effect: The bill's requirements, including the potential for increased caseloads for the Office of the Public Defender (OPD), can be handled using existing budgeted resources. Revenues are not affected.

Local Effect: The bill's requirements can be handled using existing budgeted resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill specifies that if a law enforcement officer takes a child into custody, the officer must immediately notify, or cause to be notified, the child's parents, guardian, or custodian *in a manner reasonably calculated to give actual notice* of the action. The notice must include the child's location, provide the reason for the child being taken into custody, and instruct the parent, guardian, or custodian on how to make immediate in-person contact with the child.

The Court of Appeals must adopt rules concerning age-appropriate language to be used to advise a child who is taken into custody of (1) the child's rights, including the right to remain silent and be represented by an attorney and (2) the requirement for the child's parent, guardian, or custodian to be notified, as specified.

The attorney with whom the child must consult may be an attorney who is retained by the parent, guardian, or custodian or provided by OPD. Consultation with an attorney must be confidential and may be in person or by telephone or video conference. To the extent practicable and consistent with the Maryland Rules of Professional Conduct, an attorney providing consultation must communicate with the parent, guardian, or custodian of the child in custody. The requirement of consultation with an attorney may not be waived and applies whether the child is proceeded against as a child or is charged as an adult.

A law enforcement agency conducting an interrogation must maintain a record of the notification or attempted notification, including (1) a signed statement by a duly authorized law enforcement officer employed by the agency that an attempt to notify a parent, guardian, or custodian was made; (2) the name of the person sought to be notified; and (3) the method of attempted notification.

The bill repeals a requirement for a law enforcement officer or designee to make a reasonable attempt to notify the parent or guardian *within 48 hours of the arrest* of the minor and instead requires notification in accordance with the bill's provisions.

Current Law: If a law enforcement officer takes a child into custody, the officer must immediately notify, or cause to be notified, the child's parents, guardian, or custodian of the action. After making every reasonable effort to give notice, the officer must with all reasonable speed (1) deliver the child to the court or a place of detention or shelter care designated by the court or (2) release the child to the child's parents, guardian, or custodian or to any other person designated by the court, under specified circumstances.

A law enforcement officer who charges a minor with a criminal offense must make a reasonable attempt to notify the parent or guardian of the minor of the charge. If an officer takes a minor into custody, the law enforcement officer or the officer's designee must make a reasonable attempt to notify the parent or guardian of the minor within 48 hours of the arrest.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 624 (Delegate Lierman, *et al.*) - Judiciary.

Information Source(s): Baltimore City; Harford, Montgomery, and Wicomico counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of Human Services; Department of Juvenile Services; Department of State Police; Department of Legislative Services

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