Lori Blau_Sup_SB593
Uploaded by: Blau, Lori
Position: FAV

February 19, 2020

Lori Blau
3203 Graymarsh Court, Ijamsville, MD 21754
momsters@comcast.net / (301) 798-2102

TESTIMONY IN SUPPORT OF SB593
Juvenile Law - Child Interrogation Protection Act

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Lori Blau

My name is Lori Blau and I am a resident of Frederick County, commuting daily to downtown Baltimore. I am a wife, Navy mom, and lover of the great outdoors of Maryland. In my capacity as a long-time resident of our beautiful state and a mother to three incredible young adults, I submit this testimony in favor of SB593.

Until recently, I was not aware that law enforcement has the right to pull in minor children, read them their Miranda warning, and have them sign off that they've been read their rights, all without a parent or guardian present. In fact, when I was made aware of this, I didn't believe it, and spent the better part of a day researching the facts, only to learn that it's true. This must stop.

I completely understand what law enforcement is up against. I work in downtown Baltimore and I see first hand that there are young people who sometimes engage in illegal activities and are not always held properly accountable. I understand that there is pressure from businesses, the Governor, and the people to address this issue. I want to address this issue. But children are children, and they have the right to be protected by their family or legal guardian.

Can you imagine how you would feel if one of the children in your life were pulled in by the police, questioned without your knowledge, and then allowed to sign away their right to legal representation because they thought they understood their Miranda rights? You would be furious, I would be furious, and we would be taking names and holding people accountable. Many children and their families do not have that power. So, we must rely on our state, we must rely on our government, to do the right thing, and protect our children by passing HB624. That may mean we have to work harder to address issues around youthful offending. But we must do it the right way, ensuring that every young person has their family or guardian present before they give up their right to legal representation.

Please, I urge this committee to do the right thing and pass the Child Interrogation Protection Act (SB593) as soon as you can. Our children are counting on you.

Respectfully,
Lori Blau

Samantha Blau_SUP_SB593
Uploaded by: blau, samantha
Position: FAV

February 19, 2020

Samantha Blau
142 N Milton Ave, Baltimore, MD 21224
sblau@jufj.org / (301) 639-0339

TESTIMONY IN SUPPORT OF SB593
Juvenile Law - Child Interrogation Protection Act

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Samantha Blau

My name is Samantha Blau, I am a resident of Baltimore's Patterson Place neighborhood, in District 46. I am also a former educator with over ten year's experience working with students and teachers in Baltimore City and across the state of Maryland. As a teacher, an organizer, and a resident of Baltimore I submit this testimony in favor of SB593.

Children are regarded as the hope of the future in every society, yet among the Jewish people this concept is enhanced by the view that children are a Divine trust and guarantors of the future. The Book of Psalms (127 v.3) declares "children are an inheritance from the Lord."

It is our sacred duty to treat children lovingly and humanely. Yet children do not have many rights in our society. This committee has heard testimony on behalf of Maryland Dreamers, young people brought to this country by their parents and not of their own volition. I am happy that they are here, but their initial residency was not their choice. The Economic Matters committee has heard testimony on behalf of paid sick leave, without which sick kids whose parents could not afford to stay home would be forced to go to school with strep throat and fevers. Right now, a police officer in the state of Maryland can pick a child up for questioning, decide that the child has waived their right to counsel, and go about questioning them.

Before I can pick up my nieces and nephews from summer camp, the camp facility needs prior authorization from their parents and I need to produce a state issued photo ID. I wonder how, in a society that claims to value children, their futures, and their safety, we can currently allow a stranger to take possession of a child and not notify their parent or guardian. How can we allow a person not known to a child to make a potentially life-altering decision for them, like the decision as to whether they understand the implications of the right to counsel. The right to counsel is so fundamental that it is guaranteed by a Supreme Court case. I am disgusted to think that our state touts our children's high test scores, but denies them access to their parent and legal representation because we assume an adult with a badge knows what the right decision is for a child they don't know.

I urge this committee to **issue a favorable report on the Child Interrogation Protection Act (SB593) as swiftly as possible.** I care about our children and they need this law.

CAIR_SUP_SB 593
Uploaded by: Chaudry, Zainab
Position: FAV

Council on American-Islamic Relations
CAIR Office in Maryland
6120 Baltimore National Pike, Suite 2D
Baltimore, MD 21228
(443) 253-2132 | mdoutreach@cair.com | www.cair.com

February 19, 2020
Honorable Senator Smith
Chair, Judicial Proceedings Committee

Re: Testimony in SUPPORT of SB0593 - Juvenile Law- Child Interrogation Protection Act
Good afternoon Chair Clippinger and members of the House Judiciary Committee:
On behalf of the Council on American Islamic Relations, I thank you for this opportunity to testify in support of House Bill 0624 – Juvenile Law – Child Interrogation Protection Act, sponsored by Delegate Lierman et al in the House. CAIR is the nation's largest Muslim civil rights and advocacy group. We are dedicated to protecting civil rights, enhancing the understanding of Islam, and promote justice.
This bill does just that- it promotes justice. It is necessary to protect minors' rights because they may not be aware of, or understand them, or feel empowered and trained to assert them. The Juvenile Justice System was established nearly a century ago with the goal of diverting youth offenders from the destructive punishments of criminal courts and encouraging rehabilitation based on their individual needs. We have a separate criminal justice system for juveniles with good reason, and it stands to reason that we should have protections for minors in the instance of an interrogation in order to protect their rights.

Furthermore, juveniles are less likely to understand the legal process or what rights they possess. Research shows that minors are more likely to comply with authority from a place of fear, and to feel pressured to give a false confession. In one study of youth who self-reported confessing, 36% reported that they gave a false confession.[1] These are the circumstances facing young people who either don't know or don't feel empowered to exercise their rights, and we need more lawmakers to join the fight to legislate change in Maryland. In order to set the tone for justice, rather than prioritizing speedy interrogations and fast-tracking false confessions, law enforcement should prioritize accurate, ethical and fair interrogations instead. According to the same study, 65% of those youth reported interrogations that lasted longer than 2 hours and 40% reported being intoxicated at the time of questioning.[2,3] False confessions among youth are a very real issue and they hinder the administration of justice. A false confession leads an innocent juvenile straight into the criminal justice system and permanently alters the trajectory of their and their loved ones' lives, and it drastically diminishes their prospects for a vibrant future.

Notifying a parent
guardian, or custodian of the minor's location, providing the reason they were taken into custody, instructing the parent or guardian to make immediate contact with the juvenile, and enabling the minor to seek legal representation protects their due process rights.

While it's possible that these measures might slow down the interrogation process, our priority must be to advocate for and protect the most vulnerable amongst us at all costs. This bill will help ensure a fairer system, and we strongly and respectfully urge for a favorable vote.

Thank you for your consideration.
Sincerely,
Zainab Chaudry, Pharm.D.

Director, CAIR Office in Maryland
Council on American-Islamic Relations
E. zchaudry@cair.com
C. 410-971-6062

1. The Nat'l Registry of Exonerations, Table: Age and Mental Status of Exonerated Defendants Who Falsely Confessed (2019), http://www.law. umich.edu/special/exoneration/Pages/False-Confessions.aspx
2. 10 Lindsay C. Malloy et al., Interrogations, Confessions, and Guilty Pleas Among Serious Adolescent Offenders, 38 L. & Hum. Behav. 181, 188 (2014).
3. 0 Lindsay C. Malloy et al., Interrogations, Confessions, and Guilty Pleas Among Serious Adolescent Offenders, 38 L. & Hum. Behav. 190 (2014).

Toby Ditz_Sup_SB593
Uploaded by: Ditz, Toby
Position: FAV

February 19, 2020

Toby Ditz
1416 Bolton Street, Baltimore MD 21217
Toby.Ditz@jhu.edu / (410) 669-0085

TESTIMONY IN SUPPORT OF SB 593
Juvenile Law - Child Interrogation Protection Act

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Toby Ditz

My name is Toby Ditz and I live in Baltimore City in District 40. This testimony is in support of SB 593.

Children's rights deserve special protection. No child should be asked to waive their right to silence or to participate in a custodial interrogation without consulting with a lawyer. Nor can a parent or guardian be asked to waive those rights on the child's behalf without first consulting a lawyer.

As experts on cognitive and emotional development tell us, children cannot be expected to comprehend fully even the most careful enumeration of their rights, let alone to evaluate when it is in their interest to waive them. The Baltimore Police Department's newest draft policy on youth interrogations puts it this way: even older minors "have a lower capacity for self-regulation in emotionally charged contexts … and are more susceptible than adults to Custodial Interrogation pressures." (BPD Draft policy, "Youth Interrogations," #1209, January 6, 2019). Simultaneously eager to please and fearful of those who have authority over them, children easily exaggerate, make false accusations, and even falsely confess. The miscarriage of justice in the Central Park Five teaches us as much: the rush to judgement by police, prosecutors, and self-proclaimed pundits was, we now know, based on the false confessions extracted from black youths when they were picked up and interrogated at the police station without the presence of their parents or lawyers.

Even so, I probably would not be submitting this testimony today, if I had not gone to a people's town hall attended by 40 to 60 of my neighbors and fellow Baltimoreans who gathered at the Douglas Memorial Community Church in West Baltimore last November to comment on the BPD's new draft policy, which was then being revised to meet the standards of constitutional policing mandated by the Consent Decree. The version of the draft policy we considered protected younger children, as SB593 would do, but it permitted 16 and 17 year olds to waive their rights to silence without a lawyer or guardian present. When I first read the draft a few days before the meeting, I jotted in the margin, "no minor can waive their rights." But then I began to second-guess myself. After all, I thought, this was a new, presumably liberal, policy. Maybe I just don't understand standard practice. Maybe I am naïve.

The people at the Douglas Memorial Church that evening taught me to trust my original intuition. We split up into five or six worktables for about thirty minutes to talk about the draft. Then the spokesperson for each group stood up one after the other to summarize. We were unanimous: no child should ever be interrogated without a lawyer. The parents were especially adamant; they pointed out that the law held them responsible for their children's welfare and that no other adult—let alone the police—should assume that basic authority without their consent. We also emphasized that our youth are typically very afraid of the police, despite their superficial bravado and that many have also experienced trauma. We also knew from experience how easily children can be made to tell the story that their questioners want to hear. Above all, we no longer want the law to treat our black youths, especially, as if they were adults. That is how black childhood gets criminalized. The BPD has now strengthened its policy.

SB593 is the right bill, with the right answer: no child or youth should be subject to custodial interrogations without the opportunity to first speak with a lawyer. Unbiased policing requires this answer. Respect for the rights of vulnerable populations requires this answer. **I urge a favorable report on SB593.** Thank you.

CFYJ_Sup_SB593
Uploaded by: Evans, Brian
Position: FAV

CAMPAIGN FOR YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

Testimony in Support of SB 593
Submitted to the Senate Judicial Proceedings Committee
February 19, 2020

Chairman Smith and members of the Committee:

My name is Brian Evans, and I have been a Maryland resident for over a dozen years, and am in my seventh year as a resident of Silver Spring in District 20. I am also the State Campaigns Director for the Campaign for Youth Justice, a national organization that works to end the incarceration and sentencing of children in the adult criminal justice system.

I represent myself and my organization in supporting SB 593, known as the "Child Interrogation Protection Act", a proposal that will protect the rights of children in custody facing interrogation, and their families, with minimal burden on law enforcement or the Office of the Public Defender.

The bill values the rights of parents whose children are facing interrogation by requiring reasonable attempts to "give **actual** notice" to a child's parents before any interrogation, and by mandating that those attempts be documented in writing.

The bill also enhances protection of a child's right to have legal counsel present during interrogation. It is documented that children often do not understand the traditional *Miranda* warning – which requires a 10th-grade level of reading comprehension – and do not sufficiently appreciate the consequences of waiving their right to an attorney. SB 593 will mandate the development of a child-friendly version of the *Miranda* warning, and will require that a child consult with an attorney before any decision to waive their right to counsel during interrogation.

This consultation will increase the likelihood that the child will fully understand the value of having counsel present during interrogation, and the dangers of waiving such counsel. SB 593 allows for this consultation to take place in person, by phone, or on video, so it will not place a significant burden on law enforcement or on the Office of the Public Defender.

In 2011, in a case involving a 13-year-old child interrogated at school (*J.D.B. v. North Carolina*), the U.S. Supreme Court adopted a "Reasonable Juvenile" standard, holding that because children are developmentally different than adults, it follows that what is reasonable to a child differs from what is reasonable to an adult. The Court concluded that a "reasonable juvenile" is more likely to think he or she is in custody (and thus deserving of *Miranda* protections) than a reasonable adult.

SB 593 implements this standard by establishing one or two small extra steps to protect children's right to counsel in any situation where they believe they are being held in custody. This is a good approach that, for little cost, will ensure that interrogations of children in custody are carried out in a way that respects their rights, and the rights of their parents. For the Campaign for Youth Justice and as a citizen of Maryland, I urge a favorable report on SB 593.

MSBAFamilyLaw_FAV_SB593
Uploaded by: Glickman, Ilene
Position: FAV

MSBA
MARYLAND STATE
BAR ASSOCIATION

520 West Fayette St., Baltimore, MD 21201
410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

To: Members of The Senate Judicial Proceedings Committee

From: Family & Juvenile Law Section Council (FJLSC)
by Ilene Glickman, Esquire and Daniel Renart, Esquire

Date: February 17, 2020

Subject: **Senate Bill 593**:
Juvenile Law – Child Interrogation Protection Act

Position: **SUPPORT**

The Maryland State Bar Association (MSBA) FJLSC **supports Senate Bill 593 – Juvenile Law – Child Interrogation Protection Act.**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council ("FJLSC") of the Maryland State Bar Association ("MSBA"). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

SB593 is an important legislation designed to protect the constitutional rights of juveniles who are taken into custody by law enforcement officers. This proposed legislation provides and defines what law enforcement officers must provide to the child's parents, guardian or custodians when a child is taken into custody. SB593 also requires law enforcement to maintain a record of their efforts of notification or attempts of notification of a parent, guardian, or custodian.

SB593 further instructs the court of appeals to adopt rules regarding age-appropriate language to ensure the child understands his/her rights to remain silent and to be represented by an attorney.

MSBA
MARYLAND STATE
BAR ASSOCIATION

520 West Fayette St., Baltimore, MD 21201
410-685-7878 | 800-492-1964
fax 410-685-1016 | tdd 410-539-3186
msba.org

SB593 also prohibits law enforcement from conducting interrogation of a child until the child has consulted with an attorney and further states that this right cannot be waived even if the child is charged as an adult.

The legislation is very important and will eliminate children from being improperly interrogated by law enforcement.

For the reason(s) stated above, the MSBA **supports Senate Bill 593 and urges a favorable committee report**.

Should you have any questions, please contact Ilene Glickman by e-mail at Ilene@lawhj.com or by telephone at (410) 821-8718.

MPM_Sup_SB593
Uploaded by: Harvin Battle, Dr. Edna
Position: FAV

Marla Posey-Moss | 899 Avon Drive | 410-746-2746
Community Advocate | Aberdeen, MD 21001 | Unitarian Universalist Congregant

Written Testimony Submitted for the Record to the
Maryland Senate (Judicial Proceedings Committee)
For the Hearing on Juvenile Law – Child Interrogation Protection Act (SB 593)

February 19, 2020

SUPPORT

As a Community Advocate residing in Harford County and also a congregant of the Unitarian Universalist Fellowship of Harford County, I submit testimony in strong support of House Bill 624 – Juvenile Law – Child Interrogation Protection Act ("SB 593") because of its inherent outcome to improve public safety.

The purpose of Senate Bill 593 is to help ensure that minors are protected while exercising their rights while in police custody. This bill's requirement to have law enforcement give notice to parents regarding a child's location, reason for being taken into custody and instruction to the parent, guardian or custodian on how to make immediate in-person contact with the child makes law enforcement more accountable to the public and improves relationship with the community by promoting communications between law enforcement and parents in the **beginning** of an arrest.

Furthermore, the bill's requirement to establish age-appropriate language to advise of child of his or her rights will fundamentally cut down on erroneous reporting. Research demonstrates that when in police custody, many juveniles do not fully understand or appreciate their rights, options, or alternatives. And, while in the pursuit of public safety, it would be judicious to use credible reports during any investigation and interrogation. Accordingly, Senate Bill 593 supports the American Academy of Child and Adolescent Psychiatry belief that juveniles should have an attorney present during questioning by police or other law enforcement agencies.

While the emphasis of this bill is to protect youth and have them exercise their rights for the purpose of avoiding incarcerations based on false testimonies and other aspects of society that make them vulnerable to such an outcome, the true essence of this bill is about public safety. Everyone wants to be safe inside and outside of their homes. Appeasing the public with a rush to judgement without obtaining the relevant facts in a case not only weakens the case but makes law enforcement susceptible to criticism that strips them of the respect many officers deserve.

I argue that this bill protects them and their reputation as well. Slowing down the interrogation process is key to getting the facts and establishing as well as enforcing the rights of minors is a step in the right direction to apprehending the guilty parties and strengthening public safety in our state. The public is long tired of ruining the lives of innocent youth just to be vindicated several years later of a crime they never committed.

As a Unitarian Universalist, I believe in the inherent worth and dignity of every person and our Maryland children a worth too much to simply disregard for the sake of expediency. It is for these reasons that I ask for a favorable vote for SB 593.

Sincerely,

Marla Posey-Moss
Community Advocate

Posey-Moss_FAV_SB 593
Uploaded by: Harvin Battle, Dr. Edna
Position: FAV

Marla Posey-Moss | 899 Avon Drive | 410-746-2746
Community Advocate | Aberdeen, MD 21001 | Unitarian Universalist Congregant

Written Testimony Submitted for the Record to the
Maryland Senate (Judiciary Proceedings Committee)
For the Hearing on Juvenile Law – Child Interrogation Protection Act (SB 593)

February 19, 2020

SUPPORT

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As a Unitarian Universalist, I believe in the inherent worth and dignity of every person and our Maryland children a worth too much to simply disregard for the sake of expediency. It is for these reasons that I ask for a favorable vote for SB 593.

Sincerely,

Marla Posey-Moss
Community Advocate

ACLU_Sup_SB593
Uploaded by: Holness, Toni
Position: FAV

JUSTIN NALLEY
POLICY ANALYST,
EDUCATION

Testimony for the Senate Judicial Proceedings Committee

February 19, 2020

SB 593 – Juvenile Law – Child Interrogation Protection Act

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OFMARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

The ACLU of Maryland supports SB 593, which would require a law enforcement officer who takes a child into custody to provide notice to the child's parents, guardian, or custodian and prohibit the custodial interrogation of the child by a law enforcement officer until the child has consulted with an attorney.

Every day in Maryland, children entangled in the criminal legal system are questioned without a parent or attorney present. As a result, they face criminal charges, prosecution, and incarceration without the basic due process rights that adults are entitled to.

The right to counsel for children was established in 1967 with the landmark case *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428 (1967). The Supreme Court held in *Gault* that children have the right to remain silent and that no child can be convicted unless compelling evidence is presented in court, under the due process clause of the 14th amendment. Yet, in Maryland, law enforcement is not required to call parents or attorneys before a child is interrogated.

Black children are particularly harmed in the criminal legal system
This lack of protection for children is on full display, due to the various touchpoints and interactions that children, especially Black children, have with law enforcement. 90% of all complaints against Black children are filed by the police (including school police and school resource officers).[1] In addition, Black students are more likely to be arrested in school than all other racial or ethnic groups combined.[2]

Children make better decisions with legal support
Studies show that children waive their Miranda rights at a rate of 90% and make false confessions at a higher rate than adults.[3] Although arrests of youth

[1] https://djs.maryland.gov/Documents/DRG/Youth-of-Color.pdf
[2] http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20172018.pdf, p. 125
[3] https://abcnews.go.com/US/30000-children-age-10-arrested-us-2013-fbi/sto-ry?id=65798787

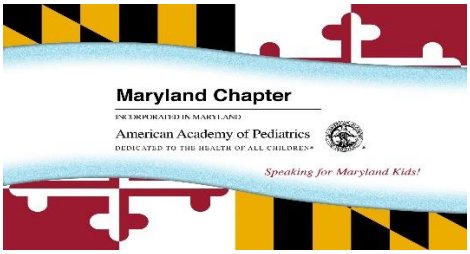
have declined, there are still over 30,000 children under the age of 10 that have been arrested in the U.S. from 2014 to 2018.[4] In Maryland, children as young as seven years old can be ensnared in the criminal legal system.[5]

Children are our most vulnerable population and must be provided the necessary protections under the law and the right to due process. This includes putting the proper mechanisms in place, so that when law enforcement must interrogate a child, the child has consulted with an attorney and their parents or guardians are notified. This bill will begin to safeguard against the lack of experience, judgement, and developmental maturity that youth have, and protect them for entanglement in the criminal legal system.

For the foregoing reasons ACLU of Maryland urges a favorable report for SB 593.

[4] https://www.ojjdp.gov/ojstatbb/structure_process/qa04102.asp?qaDate=2016
[5] https://njdc.info/wp-content/uploads/2013/11/Final-Maryland-Assessment-Report.pdf

MDAAP_FAV_SB0593
Uploaded by: Kasemeyer, Pam
Position: FAV



TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Jill P. Carter

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Richard A. Tabuteau

DATE: February 19, 2020

RE: **SUPPORT** – Senate Bill 593 – *Juvenile Law – Child Interrogation Protection Act*

The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for Senate Bill 593.

Senate Bill 593 requires children in legal custody to have a consultation with an attorney before exercising any right to waive legal counsel. The 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 cause 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.

Years of research on brain development has demonstrated that the frontal lobes which are the seat of reasoned judgment and higher order cognitive decision making, develop late and continue to develop in late adolescence into early adulthood, rendering the adolescent brain consequentially distinct from the adult brain, with implications related to the adolescent's ability to weigh the consequences of a decision to waive counsel. Based on these undisputed findings, the American Academy of Child and Adolescent Psychiatry, in a 2013 policy statement expressed its belief juveniles should always have counsel present when interrogated by law enforcement (see attached).

The United States Supreme Court has recognized these biological and developmental differences in their recent decisions on the juvenile death penalty, juvenile life without parole, and the interrogations of juvenile suspects. In particular, the Supreme Court has recognized that there is a heightened risk that juvenile suspects will falsely confess when pressured by police during the interrogation process. Research also demonstrates that when in police custody, many juveniles do not fully understand or appreciate their rights, options, or alternatives.

Passage of Senate Bill 593 will help ensure that minors have the appropriate legal counsel and advice to assist them in responding to a custodial interrogation. MDAAP strongly urges a favorable report.

For more information call:
Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Richard A. Tabuteau
410-244-7000

Interviewing and Interrogating Juvenile Suspects

Approved by Council, March 7, 2013

Research has demonstrated that brain development continues throughout adolescence and into early adulthood. The frontal lobes, responsible for mature thought, reasoning and judgment, develop last. Adolescents use their brains in a fundamentally different manner than adults. They are more likely to act on impulse, without fully considering the consequences of their decisions or actions.

The Supreme Court has recognized these biological and developmental differences in their recent decisions on the juvenile death penalty, juvenile life without parole and the interrogations of juvenile suspects. In particular, the Supreme Court has recognized that there is a heightened risk that juvenile suspects will falsely confess when pressured by police during the interrogation process. Research also demonstrates that when in police custody, many juveniles do not fully understand or appreciate their rights, options or alternatives.1,2,3,4

Accordingly, the American Academy of Child and Adolescent Psychiatry believes that juveniles should have an attorney present during questioning by police or other law enforcement agencies. While the Academy believes that juveniles should have a right to consult with parents prior to and during questioning, parental presence alone may not be sufficient to protect juvenile suspects. Moreover, many parents may not be competent to advise their children on whether to speak to the police and may also be persuaded that cooperation with the police will bring leniency. There are numerous cases of juveniles who have falsely confessed with their parents present during questioning.

Furthermore, the Academy recommends that when interviewing juvenile suspects, police should use terms and concepts appropriate to the individual's developmental level. Any written material should also be geared to the person's grade level and cognitive capacity. In general, it is not sufficient to simply read or recite information to a juvenile. Ensuring meaningful understanding will usually require asking the individual to explain the information conveyed in his or her own words.

When administering Miranda warnings, many jurisdictions use the version and forms developed for adult suspects. Research demonstrates that these warnings are often too complex and advanced for most juveniles. For this reason, the Academy recommends that police and other law enforcement authorities should utilize simplified Miranda warnings developed specifically for use with juvenile suspects.5 Ideally, an attorney should be present when Miranda Warnings are administered to juvenile suspects.

Finally, the Academy recommends that all interviews of juvenile suspects should be video recorded. The ability to review such a permanent record is integral to the subsequent assessment of the juvenile, his or her comprehension of the Miranda warnings, and the nature, setting and circumstances of the interrogation.

References

1. Grisso, T. "Juveniles' Capacities to Waive Miranda Rights - An Empirical Analysis." California Law Review, 68:6, 1980.
2. Rogers, R., Hazelwood, L., Sewell, K., Shuman, T., and H. Blackwood. "The Comprehensibility and Content of Juvenile Miranda Warnings." Psychology, Public Policy and Law, 14:1, 2008.
3. Grisso, T. "The Competence of Adolescents as Trial Defendants." Psychology, Public Policy and Law, 3:1, 1997.
4. Viljoen, J.L., Zapf, P.A. and R. Roesch. "Adjudicative Competence and Comprehension of Miranda Rights in Adolescent Defendants: A Comparison of Legal Standards." Behav. Sci. Law, 25:1-19.
5. Report 102B of the Criminal Justice Section of the American Bar Association, February 2010.

Example of a simplified Miranda Warning: (5)

1. *You have the right to remain silent. That means you do not have to say anything.*
2. *Anything you say can be used against you in court.*
3. *You have the right to get help from a lawyer.*
4. *If you cannot pay a lawyer, the court will get you one for free.*
5. *You have the right to stop this interview at any time.*
6. *Do you want to have a lawyer?*
7. *Do you want to talk to me?*

Kukucka_FAV_SB593
Uploaded by: KUKUCKA, JEFF
Position: FAV

TOWSON UNIVERSITY

Jeff Kukucka, Ph.D.
Assistant Professor
Dept. of Psychology
8000 York Road
Towson, MD 21252

Testimony Concerning SB 593

"Juvenile Law – Child Interrogation Protection Act"

Submitted to the Senate Judicial Proceedings Committee

February 19, 2020

Position: SUPPORT

Dear Senators Smith and Waldstreicher,

I, Dr. Jeff Kukucka, Assistant Professor of Psychology at Towson University, strongly support SB 593. My research examines the causes and consequences of wrongful convictions in the criminal justice system. In my career, I have published 18 peer-reviewed papers on this topic and presented my work at professional conferences over 50 times. This testimony represents my own views based on the extant scientific literature and does not necessarily represent the views of Towson University.

Since 1989, the National Registry of Exonerations has catalogued over 2,500 wrongful convictions in the United States. In 12% of these cases, it was later discovered that an individual had confessed to a crime they did not commit. Over that same time period, psychologists have developed a thorough understanding of the personal and situational factors that can induce an innocent person to give a false confession.

Archival and laboratory studies overwhelmingly indicate that **juvenile suspects are more likely than adults to give a false confession**, which almost invariably leads to wrongful conviction. In a survey of 87 psychological experts, 94% agreed that "adolescents who are interrogated are at greater risk to confess to a crime they did not commit."[1]

The reasons for juveniles' heightened vulnerability are grounded in basic developmental psychology and amply supported by research. First, due to their relative cognitive immaturity, juveniles often show inadequate comprehension of their *Miranda* rights and thus cannot waive these rights

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[1] Saul M. Kassin et al., *On the General Acceptance of Confessions Research: Opinions of the Scientific Community*, 73 AMERICAN PSYCHOLOGIST 63 (2019).

O| 410.704.3062
jkukucka@towson.edu

"knowingly and intelligently." Second, juveniles tend to be more compliant and suggestible than adults, which renders them especially susceptible to psychologically manipulative interrogation tactics. Third, by virtue of their still-developing brains, juveniles prioritize short-term rewards over long-term consequences, which results in impulsive decision-making—such as the short-sighted decision to give a false confession.

SB 593 would provide juvenile suspects with two important safeguards, namely, *Miranda* warnings in age-appropriate language and consultation with an attorney prior to being interrogated. Psychological research unequivocally suggests that these safeguards would benefit the administration of justice—and indeed, both are recommended in the official white paper of the American Psychology-Law Society.[2]

To provide juvenile suspects with safeguards that will minimize the risk of miscarriages of justice, I urge your favorable consideration of SB 593.

Sincerely,

Jeff Kukucka, Ph.D.
Assistant Professor of Psychology
Towson University

[2] Saul M. Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations*, 34 LAW AND HUMAN BEHAVIOR 3 (2010).

Dr. Means SUP SB 593
Uploaded by: Means, Ronald
Position: FAV

Ronald F. Means, M.D. LLC

Diplomate, American Board of Psychiatry and Neurology
Forensic Psychiatrist – Child, Adolescent and Adult

Office Address:	Mailing Address:	Telephone: 410-650-4879
6600 York Road, Suite 101	PO Box 16361	Facsimile: 410-779-3711
Baltimore, Maryland 21212	Baltimore, Maryland 21210	ronaldmeansmd@gmail.com

TESTIMONY IN SUPPORT OF SB 593
February 19, 2020
Judicial Proceedings Committee

Dear Chair Smith & Members of the Committees:

As a Child and Adolescent, Forensic Psychiatrist, I often provide testimony on the impact of juvenile brain development and its relation to legal practice. Case law has guided us on the importance of recognizing the difference between adults and juveniles in legal proceedings. These differences are apparent in a number of ways. For instance, as early as the 1960's, the limitations in the reliability of child witnesses was studied and demonstrated. Those limitations have been attributed to differences in child memory, susceptibility and suggestibility.

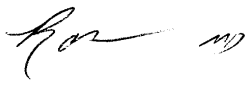
Over the past twenty years, due to technological advancements, the medical field has begun to understand that brain development continues into the mid-twenties. In particular, the frontal lobe of the brain that controls problem-solving and judgment is underdeveloped. In contrast, the amygdala that controls the perception of emotions and rewards is overactive. This combination results in the poor impulse control and high risk-taking behaviors common in adolescents.

Juveniles who have legal problems typically exemplify the negative results of this time of development. Worsening matters, youth who might be connected to illegal activities often have other factors that further reduce their capacities, such a lower cognitive abilities or impulse control problems due to mental health disorders. Understanding this pattern has resulted in legal protections for youth, such as examinations of juvenile competency or waiver hearings, during which the capacities of youth can be accurately assessed prior to legal proceedings.

It is my opinion and the opinion of the American Academy of Child Adolescent Psychiatry that greater protections for youth who offer police statements should be established. An explanation and waiver of Miranda Rights is not sufficient for youth. The language used to explain Miranda Rights is not well-suited for most youth and is especially problematic for youth who might be functioning at lower cognitive levels than their chronological age reveals. As a result, the frequency of waivers that are not intelligent and/or knowing is much greater.

Considering what we now understand about youth, especially youth who are connected to legal matters, the likelihood for poor outcomes when youth are interviewed without the protections of parent and attorney consultation first is significant. Soliciting statements from youth in emotionally charged situations - youth who are more susceptible, suggestible, and impulsive – results in poor outcomes. It is not surprising that the rate of false confessions in youth is so high. Providing the protections proposed in SB 593 would move to correct this problematic practice. We ask for a favorable report on SB 593.

Sincerely,



Ronald F. Means, M.D.
Child and Adolescent, Forensic Psychiatrist

Nalley_ACLU_FAV_SB 593
Uploaded by: Nalley, Justin
Position: FAV

JUSTIN NALLEY
POLICY ANALYST,
EDUCATION

Testimony for the Senate Judicial Proceedings Committee

February 19, 2020

SB 593 – Juvenile Law – Child Interrogation Protection Act

FAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OFMARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

The ACLU of Maryland supports SB 593, which would require a law enforcement officer who takes a child into custody to provide notice to the child's parents, guardian, or custodian and prohibit the custodial interrogation of the child by a law enforcement officer until the child has consulted with an attorney.

Every day in Maryland, children entangled in the criminal legal system are questioned without a parent or attorney present. As a result, they face criminal charges, prosecution, and incarceration without the basic due process rights that adults are entitled to.

The right to counsel for children was established in 1967 with the landmark case *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428 (1967). The Supreme Court held in *Gault* that children have the right to remain silent and that no child can be convicted unless compelling evidence is presented in court, under the due process clause of the 14th amendment. Yet, in Maryland, law enforcement is not required to call parents or attorneys before a child is interrogated.

Black children are particularly harmed in the criminal legal system
This lack of protection for children is on full display, due to the various touchpoints and interactions that children, especially Black children, have with law enforcement. 90% of all complaints against Black children are filed by the police (including school police and school resource officers).[1] In addition, Black students are more likely to be arrested in school than all other racial or ethnic groups combined.[2]

Children make better decisions with legal support
Studies show that children waive their Miranda rights at a rate of 90% and make false confessions at a higher rate than adults.[3] Although arrests of youth

[1] https://djs.maryland.gov/Documents/DRG/Youth-of-Color.pdf
[2] http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20172018.pdf, p. 125
[3] https://abcnews.go.com/US/30000-children-age-10-arrested-us-2013-fbi/sto-ry?id=65798787

have declined, there are still over 30,000 children under the age of 10 that have been arrested in the U.S. from 2014 to 2018.[4] In Maryland, children as young as seven years old can be ensnared in the criminal legal system.[5]

Children are our most vulnerable population and must be provided the necessary protections under the law and the right to due process. This includes putting the proper mechanisms in place, so that when law enforcement must interrogate a child, the child has consulted with an attorney and their parents or guardians are notified. This bill will begin to safeguard against the lack of experience, judgement, and developmental maturity that youth have, and protect them for entanglement in the criminal legal system.

For the foregoing reasons ACLU of Maryland urges a favorable report for SB 593.

[4] https://www.ojjdp.gov/ojstatbb/structure_process/qa04102.asp?qaDate=2016
[5] https://njdc.info/wp-content/uploads/2013/11/Final-Maryland-Assessment-Report.pdf

MD Catholic Conference_FAV_SB 593
Uploaded by: O'DAY, GARRETT
Position: FAV

MARYLAND CATHOLIC CONFERENCE

ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

February 19, 2020

SB 593
Juvenile Law - Child Interrogation Protection Act

Senate Judicial Proceedings Committee

Position: Support

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 593. The Catholic Conference represents the public-policy interests of the three (arch)dioceses serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 593 safeguards against custodial interrogation of a child without the assistance of counsel. This legislation would help ensure that youth held in custody would be afforded the opportunity to at least consult with an attorney, and if they so choose, have one present during custodial interrogation. Moreover, this bill would require parental notification that the child will be interrogated.

Our United States and Maryland Constitutions guarantee numerous rights to its citizens, but particularly to those involved with our systems of criminal justice. These include, but are not limited to, the right to be free from self-incrimination and the right to the effective assistance of counsel. Both of these rights are further safeguarded by this legislation.

Our society rightfully makes numerous efforts to protect constitutional rights, but there should be heightened scrutiny around ensuring that those rights are even further safeguarded for youth. In *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court specifically noted that youthful offenders possessed "diminished capacity" and the inability to fully appreciate the risks and consequences of their actions. Moreover, the United States Conference of Catholic Bishops has cautioned that system-involved youth should never be treated as if they are "fully formed in conscience and fully aware of their actions." *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice* (2000),

This bill helps to protect youth who are subject to custodial interrogation from incriminating themselves, whether truthfully against their constitutional rights, or in a false manner out of perceived or actual duress. If the State of Maryland truly values the rights and protections afforded by our Constitution, we owe it to youth subject to custodial interrogation to see that the rights afforded by it are protected.

It is for these reasons that we urge a favorable report on Senate Bill 593.

10 FRANCIS STREET † ANNAPOLIS, MARYLAND 21401-1714
410.269.1155 • 301.261.1979 • FAX 410.269.1790 • WWW.MDCATHCON.ORG

Mark Paster_SUP_SB593
Uploaded by: Paster, Mark
Position: FAV

February 19, 2020

Mark Paster
703 Hankin St, Silver Spring, MD 20910
mark@sunnydoor.net / (301) 588-5711

TESTIMONY IN SUPPORT OF SB593
Juvenile Law - Child Interrogation Protection Act

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Mark Paster

My name is Mark Paster and I am a resident of Silver Spring (District 20), Maryland. I am writing in support of SB593, the Child Interrogation Protection Act.

Children are treated differently and given more protections by our society because we know most children lack the knowledge, experience, and maturity to make most major life decisions on their own. I can certainly recall my own childhood when I thought I knew better than anyone else, was more knowledgeable than most adults, and could easily outsmart the grownups around me. I expect that most of us, when being honest with ourselves, recall similar feelings from our younger days. Maturity, in part, is the recognition that maybe we're not quite as superior to those around us as we once thought.

I clearly remember several times from my much younger days when I did things that I can now recognize as stupid acts of immaturity. In a few of those, it would have been possible that law enforcement might have become involved. Luckily for me, that didn't happen but had it happened, my life would have been very different, and probably more limited. I was lucky, not smart or mature.

Many children act inappropriately because they're immature. That's not news. But when children act inappropriately at the wrong time or place, or in a significant way, that means law enforcement gets involved. It does not mean that the child suddenly gains the maturity to know what is really in their own best interest. They probably do not realize that what they say might exacerbate the difficulty they're facing. They probably do not realize that the police officer's role in the situation is not to help them get out of trouble. They may not realize that the police officer is a trained investigator and questioner and they may be trying to outsmart a professional who isn't required to tell them the truth.

This legislation requires that parents or adults responsible for a child be notified promptly when their child is brought into custody. It is hard for me, as a parent, to fathom how anyone could oppose such a requirement. One of the most terrifying times of parenthood were those moments when my child was late and we had no idea where they were, or who they were with. Those happen for a lot of innocent reasons, but I cannot imagine the horrible feeling of a parent

not being able to locate their child, only to find out they were in police custody. Our society should never do that to any parent.

A more just society includes treating our children more justly and showing them that not only are there consequences for their actions, but they have rights and protections as well. Ensuring that the children also have access to a lawyer, a knowledgeable adult advocate, before police can question them, is that critical protection they need and deserve. When they are alleged to have seriously misbehaved, they and their parents have not forfeited their right to be treated fairly and decently. **I urge a favorable report on SB593.** Thank you.

Jill Carter_FAV_SB0593
Uploaded by: Senator Carter, Senator Carter
Position: FAV

JILL P. CARTER
Legislative District 41
Baltimore City

Miller Senate Office Building
11 Bladen Street, Suite 3 East
Annapolis, Maryland 21401
410-841-3697 · 301-858-3697
800-492-7122 *Ext.* 3697

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Jill P. Carter
In Favor of SB0593 - Child Interrogation Protection Act
Before the Judicial Proceedings Committee
on February 19, 2020

Mr. Chairman, Mr. Vice chair, and Members of the Committee:

Senate Bill 593 acknowledges what we already know - children are different. Scared kids will say anything. This bill provides safeguards against false confessions from frightened children. It requires that a child's parent or guardian be given the chance to make in-person contact with their child prior to questioning. It requires that the child consult in private with an attorney prior to questioning. Telling the youth that they have the right to an attorney is not good enough. This bill requires that they actually speak with an attorney prior to interrogation. This provision can only be waived in an emergency.

Senate Bill 593 protects children and it protects the community at large. These simple steps help assure that the police are getting the most accurate information the child can provide. False confessions send innocent people to prison. They also send investigators down blind alleys and let the real bad guy go free.

Here are just two situations where scared children told the police what they thought they wanted to hear:

In Michigan, 14 year old Devontae Sanford admitted to a quadruple homicide that he did not commit after being arrested in his pajamas and interrogated for over 24 hours without either a parent or attorney present. He confessed because the police told him if he did, he could go home.

In Wisconsin, 16 year old Brendan Dassey, confessed to a murder his uncle actually committed because the investigators, in his words, "got into my head. They got me to say whatever they wanted".

There are ample studies detailing how suggestible children are - especially when being interrogated by police. I will leave a full review of the academic literature to other witnesses on the panel.

This bill gives the parent, the child, and the investigators clear directions to ensure the well-being of the child and the integrity of the investigation.

For these reasons, I urge a favorable report on Senate Bill 593 from this committee.

Very Truly Yours,

Jill P. Carter

OPD_SUP_SB 593
Uploaded by: Shapiro, Melanie
Position: FAV

MARYLAND OFFICE OF THE PUBLIC DEFENDER

POSITION ON PROPOSED LEGISLATION

BILL: SB 593 - Juvenile Law - Child Interrogation Protection Act

POSITION: SUPPORT

DATE: February 19, 2020

According to the National Registry of Exonerations, 36% of crimes allegedly committed by youth involved false confessions, triple the estimated rate of false confessions overall. The U.S. Supreme Court has recognized that police interrogation "can induce a frighteningly high percentage" of false confessions, and that this risk is multiplied when a child is the subject of an interrogation. Children are two to three times more likely to falsely confess than are adults. In fact, children account for approximately one-third of all false confessions. In a study that analyzed 340 exonerations, forty-two percent of children were found to have given false confessions, in comparison to thirteen percent of adults. The "reasonable juvenile standard" was created in 2011 in the context of custodial interrogations. The test for determining whether a youth was in custody for Miranda to apply is that of a reasonable juvenile.

Attorney Consultation Prior to Interrogation

Requiring an attorney consultation is not the creation of a new Constitutional right. It is necessary to ensure that the current Constitutional rights to remain silent and right to have an attorney present during interrogation are in fact understood by the youth subject to interrogation.

To ensure compliance with constitutional mandates, and limit the likelihood of a false confession, Maryland should explicitly require that all children consult with an attorney before any interrogation takes place. The only way to ensure that the waiver of a youth's constitutional rights it is in fact a knowing, intelligent and voluntary waiver is to have an attorney consultation before any interrogation.

The U.S. Supreme Court recognizes that a lawyer is uniquely positioned in the context of an interrogation to protect the Fifth Amendment rights of the accused. "[T]he lawyer occupies a critical position in our legal system because of his unique ability to protect the Fifth Amendment rights of a client undergoing custodial interrogation. Because of this special ability of the lawyer to help the client preserve his Fifth Amendment rights once the client becomes enmeshed in the adversary process, the Court found that 'the right to have counsel present as the interrogation is indispensable

to the protection of the Fifth Amendment privilege under the system' established by the Court."

Even before the Miranda rights were formally established, the U.S. Supreme Court made clear that, in the context of police interrogation, events that "would leave a man cold and unimpressed can overawe and overwhelm a lad ..." The Supreme Court has since stressed what "any parent knows"—indeed, what any person knows— that "children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them."3 Adolescents lack the experience, perspective, developmental maturity, and judgment to recognize and avoid choices that could be detrimental to them.

Current research demonstrates that all children, even 16 and 17 year-olds, are highly susceptible to pressure, have poor impulse control, incomplete brain development, and limited understanding of long-term consequences. The American Bar Association (ABA) resolved more than 17 years ago that "youth should not be permitted to waive the right to counsel without consultation with a lawyer and without a full inquiry into the youth's comprehension of the right and their capacity to make the choice intelligently, voluntarily and understandingly." Maryland should make the same resolution via passage of HB 624.

Parent Notification of Arrest

Parents or guardians should be notified expeditiously that their child was taken into police custody, why they were taken into custody and where their child is located. While current law states that a parent should be notified, this language must be strengthened to ensure that parents are actually informed of their child's whereabouts. Since not every arrest will result in an interrogation, and a child needs a parent or guardian to be released from police custody, these measures will help secure the presence of a parent or guardian.

However, a parent or guardian's presence is insufficient for purposes of interrogation. The American Academy of Child and Adolescent Psychiatry (AACAP) has declared "that juveniles should have an attorney present during questioning by police or other law enforcement agencies." While noting that youth should also be able to consult with a parent, the AACAP recognized that "parental presence alone may not be sufficient to protect juvenile suspects." Parents generally lack the competency about police interrogation techniques and the risks of providing a statement, even a truthful one, to properly advise their child and ensure that any statement is knowing, intelligent and voluntary.

Also, because there is no legally recognized confidentiality of communications between a parent and their child, a parent could be compelled to testify against their child if they are present or partake in the child's interrogation.

Age Appropriate Miranda Warnings

The standard Miranda warning requires a tenth-grade level of reading comprehension.

Adolescents are more likely than their adult peers to assert they understand material to avoid embarrassment and to appear intelligent. When a law enforcement officer simply asks “do you understand” many children will respond in the affirmative even though they do not actually understand. To ensure that a waiver is knowing, intelligent, and voluntary, Miranda warnings for children must be provided at a third-grade reading level, police officers must read each warning slowly, and the interrogator must stop after each one to ask the child to explain the warning back in his or her own words.

Studies show that of the Miranda policies in 122 police departments across the country, “[e]ven under the best circumstance, preteen suspects are likely to find Miranda vocabulary and reading levels are far beyond their understanding.”

The International Association of Chiefs of Police (IACP) has recognized that “juveniles are more vulnerable than adults during interrogation – a vulnerability that is categorically shared by every juvenile, no matter how intelligent or mature.” In recognition of the research establishing the heightened risks of youth interrogations, in 2006, the IACP in conjunction with the U.S. Department of Justice Office of Juvenile Justice Delinquency Prevention (OJJDP) developed a training curriculum for law enforcement and a set of model policies for juvenile interrogation. In their extensive report Reducing Risks: The Executives Guide to Effective Juvenile Interview and Interrogation, the IACP acknowledged that standard law enforcement interrogation techniques are unreliable when used with children.

In light of all this, HB 624 would codify the requirement for an age-appropriate Miranda warning for youth in custody.

Lastly, as to implementation, OPD is committed to provide representation related to interrogations of youth in person, by phone or by video conference.

For all these reasons, OPD would ask for a favorable report on HB 624.

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Spicyn_FAV_SB 593
Uploaded by: spicyn, natalie
Position: FAV

Natalie Spicyn MD, MHS, FAAP
3933 Keswick Road
Baltimore, MD 21211
District 41

February 19, 2020

TESTIMONY IN SUPPORT OF SB 593

Juvenile Law - Child Interrogation Protection Act

TO: Hon. Chairman Smith and the members of the Judicial Proceedings Committee
FROM: Natalie Spicyn MD, MHS, FAAP

I am a primary care physician at a community health center in Park Heights, where, as a board-certified pediatrician and adult internal medicine specialist, I care for children, adolescents and adults across the life span. I am writing in strong support of SB 593, which reforms current juvenile interrogation practices to bring them in line with what is appropriate given our understanding of the developing adolescent brain.

It is well-known that the area of the brain that is responsible for higher order cognitive processing, the prefrontal cortex, continues to develop well into the 3rd decade of life. In our medical training, physicians are taught to be responsive to the differences in how adolescents and adults approach decision-making and weigh consequences; for example, when counseling an adult about smoking cessation, we focus on risk of developing emphysema or lung cancer, but when counseling an adolescent, we focus on bad breath, and stained teeth. This is because we understand that the adolescent brain does not process long term risk, such as that of developing lung cancer in several decades, in the same way the adult brain does; it assigns lower saliency, despite greater gravity of this outcome.

It is easy, then, to understand, why it is inappropriate for an adolescent to be read the standard “adult” set of Miranda rights, in a situation which is intimidating by definition, and then to potentially waive those rights without the benefit of legal counsel. Without fully comprehending the consequences, juveniles in police custody are easily intimidated into false confessions, which is absolutely unacceptable. Indeed, the Supreme Court of the United States has recognized the need to take age into account when a child is read their Miranda rights.

Children, regardless of their physical size or stature, are not just “little adults” when it comes to their cognitive development and processes, and SB 593 is frankly common sense legislation that ensures that law enforcement must take extra care to not treat children as little adults, expedient as that might be. I hope you will prioritize passage of SB 593 during this legislative session and respectfully urge a favorable report.

Spicyn_FAV_SB 593
Uploaded by: spicyn, natalie
Position: FAV

Natalie Spicyn MD, MHS, FAAP
3933 Keswick Road
Baltimore, MD 21211
District 41

February 19, 2020

TESTIMONY IN SUPPORT OF SB 593

Juvenile Law - Child Interrogation Protection Act

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FROM: Natalie Spicyn MD, MHS, FAAP

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Carol Stern-Sup-SB593
Uploaded by: Stern, Carol
Position: FAV

February 19, 2020

Carol Stern
4550 North Park Avenue, Apt T106, Chevy Chase, MD 20815
sterncss@gmail.com / 301-951-3936

JEWS UNITED FOR JUSTICE
THINK JEWISHLY. ACT LOCALLY.

TESTIMONY IN SUPPORT OF SB 593
Juvenile Law - Child Interrogation Protection Act

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Carol Stern, on behalf of Jews United for Justice (JUFJ)

I am testifying in favor of SB 593 as a resident of Chevy Chase, Maryland, in Montgomery County's District 16, and as the co-chair of Jews United for Justice's Equal Justice Under the Law Team. JUFJ organizes 5,000 Jewish Marylanders and allies in support of local campaigns for social, racial, and economic justice.

The Jewish tradition tasks us with carrying out the directive issued in Deuteronomy 16:20, "Tzedek, tzedek tirdof - Justice, justice shall you pursue." The Jewish sages explain that the word tzedek is repeated not only for emphasis but to teach us that in our pursuit of justice, our means must be as just as our ends. Rabbi Mordecai Kaplan wrote "teach us to respect the integrity of every human soul be it that of a friend or stranger, child or adult." When we are working to reform our criminal justice system, we must demand that it operates in accordance with these deeply held Jewish values.

Last week, we heard disturbing testimony against this bill in the House Judiciary Committee from State's Attorneys who indicated that kids who are "bigger" don't need to have their parents notified when conducting a custodial interrogation, but that they do contact parents for "small kids." A child's size is not a solid enough indicator of whether a child is old enough to understand their Miranda rights. Further, it is quite subjective and implicit biases and racism likely play a significant role in making such a determination. Research published by the American Psychological Association in 2014 showed that "Black boys as young as 10 may not be viewed in the same light of childhood innocence as their white peers, but are instead more likely to be mistaken as older, be perceived as guilty and face police violence if accused of a crime."[1] Black children are often perceived by white adults to be older than their actual age. All children need to be protected, from a system that makes assumptions about kids based on their physical size and their race.

The State's Attorneys raised concerns about the impact passing SB593 would have when a kid is accused of murdering both of their parents. The answer is that not only do kids who are suspected of murdering their parents need an attorney, but they should have a guardian ad

[1] American Psychological Association "Black Boys Viewed as Older, Less Innocent Than Whites," March 6, 2014 <https://www.apa.org/news/press/releases/2014/03/black-boys-older>

litem. All kids should have access to protections that the Justice Department deems necessary and are no less than adults have in Maryland.

Currently, police officers in Maryland have little limiting their right to interrogate children. As a mother of two children and a grandmother of three, I cannot imagine allowing my children or grandchildren to be interrogated without a lawyer and/or their parents being present. This is not the kind of justice that the State of Maryland should allow for anyone. A juvenile may not understand their rights or the warnings given to them. Many may not have the education, experience, background, or capacity to even know that they can remain silent, ask for an attorney, or call their parents. This bill adds much needed reforms for treating juveniles in the justice system with equality and the respect that all people deserve.

JUFJ respectfully urges a favorable report on SB 593.

Watts_SupTestimony_SB 593
Uploaded by: Watts, Linda
Position: FAV

Linda Watts - Support – SB 593

Several months ago, I was sitting at a BRIDGE Maryland meeting, when Rev. Tilghman stood up and started talking about the Netflix series “When They See Us”. I had started watching the series earlier that same week but found that I just had to turn it off because it was so painful. As the police were interrogating the young men, I looked at their faces and saw my grandson.

He is a 17 year old who came to our family as a foster child with his younger sister at the age of 5 and was subsequently adopted.

Like most 17 year olds, he is full of himself, thinking he knows everything one moment and yet a people pleaser trying to find the approval of others that he never had from his birth mother the next. I recently heard a high school principal refer to young men at this age as “Numbskulls” because they continually do the same things over and over again because they think that the next time the consequences will be different. But this is my “Numbskull” and he is my “Heart”.

This Netflix series gave me a whole new level of fear.

I came home from that meeting and I watched the whole series. I knew I needed to know more. I did research on the current law in Maryland. I did research on adolescent response to interrogation. I found a lot of court cases where juveniles interrogations were thrown out by courts because juveniles did not have the capacity to waive Miranda rights or they were coerced by law enforcement, or their confessions were unreliable.

I had always assumed that as a juvenile, if he were to be picked up on the street, the first call would be to his parents. He cannot legally sign a contract in the State of Maryland. He could not marry in the State of Maryland without his parent’s permission. He cannot withdrawal from school without his parent’s permission. He cannot serve in the military. These provisions are in place to keep to keep him from making decisions that could jeopardize his future. Why would he be subjected to police questioning without his parents being notified that he was in custody? Why would we assume that if he can’t read and sign a contract, he would be capable of truly understanding the Miranda warning?

HB 624 would provide my grandson the protection that he needs as a minor. In addition, to the age-appropriate Miranda and the immediate notification of parents, this bill would mandate that interrogation could not begin without a consultation with legal counsel. My grandson’s parents would have insisted on legal counsel, but what of the son of a single working mom, who may not be able to just walk off her job for fear of losing her only income source. This bill protects her child and all children by requiring legal consultation BEFORE interrogation.

I respectfully request that this committee vote to bring SB 593 to the floor.

My grandson needs you. Your sons and grandsons need you. Your daughters and granddaughters need you.

MCPA-MSA_UNF_SB 593
Uploaded by: Berry, Sheriff Troy
Position: UNF

Maryland Chiefs of Police Association

Maryland Sheriffs' Association

MEMORANDUM

TO: The Honorable William C. Smith Jr., Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 19, 2020

RE: **SB 593 Juvenile Law – Child Interrogation Protection Act**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 593. This bill requires certain procedures to be followed when taking a juvenile into custody and interviewing and interrogating a juvenile.

Model policies exist for the interviewing and interrogation of juveniles to ensure consistency with the limitations in maturity and emotional development characteristic of juveniles. However, MCPA and MSA are very concerned that codifying such policies may create situations in which juveniles may not be questioned during active crime scenes where information may be crucial in identifying a shooter(s) to save lives. For example, if an active shooter situation is in progress at a school and law enforcement apprehends a juvenile suspect at the scene who is believed to be involved with others in the incident, law enforcement would not be able to question that juvenile to get information about the other suspect who may still be in the school at large. All evidence and information subsequently obtained would be subject to the exclusionary rule and inadmissible in any criminal proceedings. This may not be the intent of the bill, but this could be the result based on how this bill is drafted.

While well-intentioned, these policies should not be codified, but left up to each law enforcement agency to follow established best practices necessary to adapt to critical and emergency situations often subject to rapidly evolving dynamics.

For these reasons, MCPA and MSA OPPOSE SB 593 and urge an UNFAVORABLE Committee report.

532 Baltimore Boulevard, Suite 308
Westminster, Maryland 21157
667-314-3216 / 667-314-3236

MDJudiciary_UNF_SB593
Uploaded by: Jones, Tyler
Position: UNF

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

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

SHELLENBERGER_UNF_SB593
Uploaded by: Shellenberger, Scott
Position: UNF

Bill Number: SB593
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF SENATE BILL 593
CHILD INTERROGATION PROTECTION ACT

I write in opposition to Senate Bill 593 that substantially hampers law enforcements ability to investigate crimes and goes well beyond the protections afforded under the Constitution. This bill also ignores some practical realities of some of the most heinous violent crimes that can be committed by juveniles.

On February 2, 2008, Nicholas Browning, who was 15 years old, shot his father in the head, shot his mother in the head and killed his younger brothers. All four died. Browning was 6'2" tall, 200lbs with an IQ of 125 and was an honor student. Browning wore gloves and had a spare magazine on him. This was a cold and calculated murder.

If Senate Bill 593 was in effect who do the police call for notification? Who does the lawyer call when consulting with the parents?

The gun Browning used was missing and hidden. Can the police conduct a public safety interview to retrieve the gun? The Supreme Court says you can in New York v. Quarles.

The problem that Senate Bill 593 presents is not a problem for just one case.

Also in 2008, Lewin Powell, who was 16 years old, beat his mother to death with a baseball bat. When his father arrived home, he tried to beat him to death. Powell was a student at McDonogh and beat his mother to death because she kept asking about his failing school grades.

Who do the police call in the Powell case? The dead mother or the father he just tried to kill? Do the police not have the right to find out where Mrs. Powell's body is hidden?

In both of these cases, police followed the Constitution of the United States. They followed the dictates of the Supreme Court and the Court of Appeals. The Supreme Court in JDB v. North Carolina already tells Judges they must consider the age of the Defendant when ruling at the admissibility of statements.

All these Defendants were properly advised of their rights.

What do police do about the sexual child abuse case that occurs between siblings or step siblings? If son is suspected of sexually abusing his sister, how will the police ever get to the truth if the parents have to be consulted prior to questioning? If questioning is blocked by the parents and a case cannot move forward, more sexual assaults may occur.

What is more troubling is what if the child victim is a female, mom is deceased, dad is the suspect and the child has been removed by DSS from the home. Is that child in custody? Possibly. Every county in this state conducts child abuse investigations jointly with law enforcement and DSS doing the interviews. If the child is in DSS custody, dad must be notified and they must now get permission to talk from the sex offender.

If they have to wait to contact parents and attorneys, juvenile Defendants will actually be held longer while waiting for contact.

Finally, the bill is constitutionally flawed in that it allows for “simpler” Miranda warnings so the juvenile understands them. The Supreme Court says Miranda is Miranda. Simple warning are not permitted.

Passing Senate Bill 593 goes well beyond the constitutional protections for all other citizens of the United States. Each of the above Defendant’s had an attorney for trial and reviewed the facts of their clients’ cases to make sure the constitutional guarantees afforded Defendants had been complied with.

I urge an unfavorable report.

MSP_INFO_SB0593
Uploaded by: State Police, Maryland
Position: INFO

State of Maryland
Department of State Police
Government Affairs Section
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

DATE: **February 19, 2020**

BILL NUMBER: **Senate Bill 593** **POSITION: Letter of Information**

BILL TITLE: **Juvenile Law – Child Interrogation Protection Act**

REVIEW AND ANALYSIS:

This legislation seeks to require a law enforcement officer who takes a child into custody to provide notice to the child's parent, guardian or custodian. This legislation also prohibits the interrogation of a child by a law enforcement officer until the child has consulted with an attorney, a right that may not be waived.

Under current law, law enforcement officers are permitted to take a minor into custody, attempt to notify the parents of the custody, read the minor their Miranda rights, and then conduct an interrogation of the minor if the right to remain silent or invoke an attorney are not expressed.

This legislation could cause major delays in obtaining useful information from the minor. Such as at the scene of a crime, the ability to determine if there are any other suspects involved, the location of injured innocent people, or the location of a discarded weapon that could be subsequently obtained by another person and cause harm to that person or others.

Another possible issue with this legislation is what if the minor refuses to provide their name or any information regarding their parent, guardian or custodian. What if the minor will not provide any information regarding an attorney? The Public Defender may not be able to determine qualification for representation, but the legislation does not allow the interrogation to commence without the consultation.