



Testimony before the House Judiciary Committee

**Keith Wallington
Justice Policy Institute
Kwallington@justicepolicy.org**

HB624 – Juvenile Law — Child Interrogation Protection Act

February 13, 2020

My name is Keith Wallington. I am a resident of Prince George County and a State Based Strategist with the Justice Policy Institute. Please accept my statement in support of HB624, which provides due process for justice-involved youth by requiring police officers to notify their parent or guardian prior to interrogation and prohibiting interrogation before they have been able to consult with an attorney.

The decision making of children, youth, and emerging adults are different from adults with fully-developed cognitive abilities. This fact, supported by rigorous, empirical research, should be reflected in our justice system and policies. Beyond lacking the cognitive development to think critically about their actions and consider long-term consequences, youth are also not in a position to make an informed decision about their right to counsel. The American Bar Association (ABA) recognized this fact nearly two decades ago when it determined that youth should not even be allowed to waive their rights without prior consultation. HB624 will uphold that ABA resolution by preventing youth from unknowingly waiving their right to an attorney prior to interrogation.

Justice-involved youth are placed in complex and serious situations, of which they may not fully understand its significance. This underscores the need to protect these youth with the same legal protections that are afforded to adults. At a minimum, that needs to involve ensuring that the parent is notified and the youth is provided counsel.

In Maryland, youth involved in the criminal justice system can be questioned without their parents or attorneys present under certain circumstances. Current legislation does not require that a child's parent or guardian be notified. This bill will rectify that by ensuring that parents and guardians must be notified promptly and adequately at the time of a child's arrest. Information regarding the whereabouts of the child and the basis of their arrest is critical for ensuring due process under the law.

Informing a parent or guardian is the bare minimum level of support that should be given to youth involved with the justice system. In addition, having effective legal counsel plays a key role in determining if the youth will end up in the community or confined. This bill permits attorney consultation prior to interrogation to be in person, by phone, or video. However, because of insufficient resources allocated to the public defense system, too many young people do not have access to the

advocacy that can make a difference as to whether they will be confined or have access to community-based restorative justice processes.

Without effective counsel, courts do not have the information necessary to determine whether a justice-involved youth can be served in the community. This is critical because, regardless of the offense committed or risk level assigned, being placed in the community leads to far better outcomes for a justice-involved youth. Furthermore, the level of racial inequity that young people face in the justice system can be increased by the financial obstacles to effective counsel. Low-income youth of color often live in areas of concentrated poverty that are more heavily policed, leading to more surveillance and more repeat encounters with the police.

The positive implications of this bill go beyond restoring the minimal degree of legal equity to justice-involved youth. Given Maryland's history of racial disparities in the justice system, this bill will help support the youth of color most likely to be harmed by involvement in the system. For example, 90 percent of the 14,000 complaints made against youth of color in Maryland were filed by the police against Black children. Young Black children are the most vulnerable to Maryland's inequitable justice policies.

More than 70 percent of people in Maryland prisons are Black compared to 30 percent of the overall state population. Many of these people are young Black males who entered prison as a young adult under the age of 25. Nearly eight in 10 people who have served 10 or more years in a Maryland prison are Black. This is the highest percentage of any state in the country. Black youth are targeted more than White youth and continue to be the most overpoliced and overrepresented demographic in Maryland prisons. This bill, while it will not end this disparity, will at minimum prevent it from getting worse by giving Black youth access to the resources needed to minimize justice involvement.

HB624 would protect justice-involved youth, particularly Black and brown youth that have long been victim to the Maryland justice system's racial disparities. For this reason, and all those listed above, we support this legislation and ask for favorable consideration.