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POSITION ON PROPOSED LEGISLATION

BILL: SB 120 - Custodial Interrogation - Parental Consultation

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 12, 2024

The Maryland Office of the Public Defender strongly urges the Committee to issue an unfavorable report on Senate Bill 120.

In 2022, Maryland passed the Child Interrogation Protection Act (“CIPA”). As the law currently stands, a parent has the right to be notified of their child’s custodial status; this right belonging to the parent is distinct from the child’s independent right to an attorney at all stages of a legal proceeding, and the additional right to consult with counsel created by CIPA prior to a custodial interrogation.

Evidence suggests that the presence of a parent neither increases juveniles’ assertion of their rights nor mitigates the coercive circumstances inherent in police interrogations.¹ Many parents are unaware that their presence or participation in their child’s interrogation can fail to protect their child’s right against self-incrimination. Further, a majority of adults misunderstand their legal rights and protections within a criminal setting, especially involving custodial interrogations, which means many parents lack the necessary information in order to adequately assist their children prior to a custodial interrogation.

Parents cannot replace legal counsel for a child, especially when the child is accused of delinquency or criminal acts. Attorneys with the Office of the Public Defender are trained, using the latest science and peer reviewed studies, about adolescent brain development, speaking to young clients, identifying key differences between children and adults for advisements.

¹ Naomi E. S. Goldstein, Emily Haney-Caron, Marsha Levick & Danielle Whiteman, Waving Goodbye to Waiver: A Developmental Argument Against Youth’s Waiver of Miranda Rights, 21 LEG. & PUB. 1, 52 (2018) (citing Thomas Grisso & Carolyn Pomicter, Interrogation of Juveniles: An Empirical Study of Procedures, Safeguards, and Rights Waiver, 1 LAW & HUM. BEHAV. 321, 340 (1997)).



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Children are entitled to legal protections as individuals—separate and apart from their parents. Every child has the right to understand their legal rights and protections. Children also have the right to understand what it means to abandon their rights, and that any waiver of their rights must be knowingly, intelligently, and voluntarily made. Accordingly, CIPA must remain as written to protect the children of Maryland’s constitutional rights.

Therefore the Maryland Office of the Public Defender strongly urges the Committee to issue an unfavorable report on Senate Bill 120.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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