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## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB 169 - Custodial Interrogation of Minors - Admissibility of Statements**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: February 6, 2024**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 76.

House Bill 76 would create the rebuttable presumption that a statement made by a minor during a custodial interrogation is involuntary and inadmissible when the law enforcement officer intentionally used false information to elicit the statement. This presumption is essential to protect the due process rights of children and prevent wrongful convictions that result from false confessions.

The Supreme Court has long recognized that police interrogation tactics “can induce a frighteningly high percentage of people to confess to crimes that they never committed.”<sup>1</sup> The risk of false confessions is multiplied when a child is the subject of an interrogation: children are much more likely than adults to falsely confess,<sup>2</sup> and children account for more than one-third of all false confessions.<sup>3</sup> Further, *In re Gault* the Supreme Court cautioned against the inevitable risk of obtaining a false confession from a child in noting that “*authoritative opinion has cast formidable doubt upon the reliability and trustworthiness of confessions by children.*”

Deceptive tactics during the interrogation of a juvenile make it more likely that a child will falsely confess. When police deceive a suspect during questioning, the interrogation is more likely to result in a false confession.<sup>4</sup> When law enforcement officials falsify evidence against a suspect, even innocent people can “feel trapped by the inevitability of the evidence against them,” causing them to confess to crimes that they did not commit.<sup>5</sup> Youth are even more

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<sup>1</sup> *Corley v. United States*, 556 U.S. 303, 320-21 (2009).

<sup>2</sup> See American Bar Association Insights on Law & Society 16.2 available at [https://www.prisonpolicy.org/scans/aba/Juvenile\\_confessions.pdf](https://www.prisonpolicy.org/scans/aba/Juvenile_confessions.pdf) (“Another study of 340 exonerations found that 42% of juveniles studied had falsely confessed, compared with only 13% of adults.”).

<sup>3</sup> National Registry of Exonerations, Table: Age and Mental Status of Exonerated Defendants Who Falsely Confess (April 10, 2022).

<sup>4</sup> Saul M. Kassin et al., Police-induced confessions: Risk factors and recommendations., 34 *Law and Human Behavior* 3–38 (2010), <http://doi.apa.org/getdoi.cfm?doi=10.1007/s10979-009-9188-6> (last visited Feb 23, 2022).

<sup>5</sup> *Id.*

susceptible to these tactics due to their tendency to comply with demands of authority figures and because the parts of their brain that assist with judgment, decision making, and future planning are not fully developed.<sup>6</sup>

The indisputable and fundamental differences between children and adults justify treating children differently than we do adults. The use of deceptive interrogation practices must be discouraged to protect the due process rights of children and ensure the integrity of both the criminal and juvenile legal systems.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on HB 169.**

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

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<sup>6</sup> Steinberg, L. (2007). Risk Taking in Adolescence: New Perspectives From Brain and Behavioral Science. *Current Directions in Psychological Science*, 16(2), 55-59. <https://doi.org/10.1111/j.1467-8721.2007.00475.x>