

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

House Bill 1007  
Judiciary

(Delegate Conaway)

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**Juvenile Law - Custodial Interrogation of Minor on School Premises - Recording Restrictions**

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This bill prohibits a police officer or school official from making an electronic recording of a custodial interrogation of a minor without the consent of the minor's parent or guardian. A statement made by a minor during a custodial interrogation that was recorded in violation of this prohibition is presumed involuntary and is inadmissible as evidence against the minor in any criminal or juvenile proceeding. A custodial interrogation is defined as an interrogation by a police officer or school official on school premises in which the minor is not free to leave.

The bill only applies prospectively to statements made on or after the bill's October 1, 2009 effective date.

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**Fiscal Summary**

**State Effect:** None. The bill does not directly affect State operations or finances.

**Local Effect:** None. The bill does not directly affect local government operations or finances.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Maryland law does not require or prohibit recorded interrogations of minors. The practice varies throughout the State.

Chapters 359 and 360 of 2008 declared that it is the public policy of the State that (1) a law enforcement unit that regularly utilizes one or more interrogation rooms capable of creating audiovisual recordings of custodial interrogations shall make reasonable efforts to create an audiovisual recording of a custodial interrogation of a criminal suspect in connection with a case involving murder, rape, sexual offense in the first degree, or sexual offense in the second degree, whenever possible; and (2) a law enforcement unit that does not regularly utilize one or more interrogation rooms capable of creating audiovisual recordings of custodial interrogations shall make reasonable efforts to create an audio recording of a custodial interrogation of a criminal suspect in connection with a case involving murder, rape, sexual offense in the first degree, or sexual offense in the second degree, wherever possible.

**Background:** Interest in recorded interrogations of minors has increased following the 2002 release of five teenagers convicted of the 1989 rape and near-murder of the “Central Park Jogger” on the basis of their nonvideotaped interrogations, but videotaped confessions. They were ordered released after another person confessed to having committed the crime, acting alone, and DNA evidence failed to link the teenagers to the attack.

Although not specific to minors, at least nine states (Alaska, Illinois, Maine, Minnesota, Nebraska, New Hampshire, New Jersey, New Mexico, and Wisconsin), and the District of Columbia have mandatory recording laws. The Alaska and Minnesota supreme courts have informed law enforcement officials in those states that they must record interviews of suspects in detention whenever feasible, or risk the statements being ruled inadmissible in court. Also, approximately 500 local jurisdictions have voluntarily adopted recording policies.

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### **Additional Information**

**Prior Introductions:** HB 1076 of 2008 received an unfavorable report from the House Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Baltimore City, Montgomery County, Maryland State Department of Education, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of State Police, National Association of Criminal Defense Lawyers, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2009  
mlm/kdm

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