



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

Senate Bill 136-Juvenile Law-Juvenile Interrogation Act
Judicial Proceedings Committee – February 4, 2021
SUPPORT

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club** (WDC) for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB136. This bill will increase protections for children facing interrogation by law enforcement, and we commend Delegate Bartlett and her cosponsors for their leadership in proposing this legislation.

From a young age, we are taught that lying is bad—that above all else, the truth matters. Unfortunately, this age-old emphasis on truth telling dissipates in our criminal justice system, specifically when law enforcement officers interrogate those accused of crimes. Law enforcement officers can and do lie as a coercive tactic to compel information from the accused.¹ This tool of deception is entirely legal and can lead even the most poised of adults to provide false and incriminating information. When used with children, deception and manipulation is even more troubling.

In *J.D.B. v. North Carolina*, the Supreme Court held that age must be considered when analyzing the details surrounding one's detention. The Court underscored that "it is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave," noting that children feel an inherent obligation to obey authority figures.² In *Miller v. Alabama* the Court described children as "constitutionally different from adults."³ The Court has further equated "a mere child" to "an easy victim of the law."⁴

The Court has repeatedly and clearly spoken: the U.S. Constitution mandates unique protections for children in the criminal justice system. However, failure to meet that mandate persists. According to the National Registry of Exonerations, 38% of exonerations for crimes allegedly committed by youth involved false confessions, triple

¹ *Frazier v. Cupp*, 394 U.S. 731 (1969) (holding defendant's confession voluntary even though induced by law enforcement's dishonesty during interrogation).

² *J. D. B. v. North Carolina*, 564 U.S. 261, 264 (2011) (highlighting that law enforcement and courts may not "blind themselves to the commonsense reality" that children are different than adults).

³ *Miller v. Alabama*, 567 U.S. 460, 471 (2012).

⁴ *Haley v. Ohio*, 332 U.S. 596, 599 (1948) ("That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens.").



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

the estimated rate of false confessions generally.⁵ Fixated on their desire to return home, children are willing to say whatever they can to free themselves from the four walls of an interrogation room.

Maryland does not treat its children any better than the nation at large. Law enforcement can question a child taken into custody in Maryland without an attorney present, and often, the child's parent or guardian is not notified of the child's detention or adequately informed of the circumstances surrounding the detention. Maryland exacerbates existing injustices surrounding the interrogation of youth by prosecuting children as young as seven, the average age of a second grader.⁶ Interrogating a child without allowing the child to consult with an attorney and his parents or guardians and without the attorney's continued presence during questioning does nothing to further the quest for justice.

Children are vulnerable—they lack the developmental maturity, experience, and perspective necessary to withstand interrogation by authorities when faced with criminal accusation. Subjecting children to interrogation that is legally infiltrated by deception and coercion transforms the constitutionally protected presumption of innocence to one of coerced guilt. If seeking justice for all those affected by crime is the goal, we ask you to pass SB136, which will simultaneously inform law enforcement's search for the truth and adequately protect accused children as the Constitution instructs.

We ask for your support for SB136 and strongly urge a favorable Committee report.

Respectfully,

Diana Conway
President

⁵ Zusha Elinson, *False Confessions Dog Teens*, THE WALL STREET JOURNAL (Sept. 8, 2013), <https://www.wsj.com/articles/SB10001424127887324906304579036901493013302>.

⁶ Md Code, Cts & Jud Proc § 3-8A-02.