

Bill Number: SB 136

Scott D. Shellenberger, State's Attorney for Baltimore County

Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF SENATE BILL 136
JUVENILE INTERROGATION PROTECTION ACT

I write in opposition to Senate Bill 136 that substantially hampers law enforcements ability to investigate crimes and goes well beyond the protections afforded under the Constitution. This bill also ignores some practical realities of some of the most heinous violent crimes that can be committed by juveniles.

On February 2, 2008, Nicholas Browning, who was 15 years old, shot his father in the head, shot his mother in the head and killed his younger brothers. All four died. Browning was 6'2" tall, 200lbs with an IQ of 125 and was an honor student. Browning wore gloves and had a spare magazine on him. This was a cold and calculated murder.

If Senate Bill 136 was in effect who do the police call for notification? Who does the lawyer call when consulting with the parents?

The gun Browning used was missing and hidden. Can the police conduct a public safety interview to retrieve the gun? The Supreme Court says you can in New York v. Quarles. Senate Bill 136 only has an exception if "necessary to protect an individual from imminent threat to the life of the individual." That would not apply in the Browning case.

The problem that Senate Bill 136 presents is not a problem for just one case.

Also in 2008, Lewin Powell, who was 16 years old, beat his mother to death with a baseball bat. When his father arrived home, he tried to beat him to death. Powell was a student at McDonogh and beat his mother to death because she kept asking about his failing school grades.

Who do the police call in the Powell case? The dead mother or the father he just tried to kill? Do the police not have the right to find out where Mrs. Powell's body is hidden?

In both of these cases, police followed the Constitution of the United States. They followed the dictates of the Supreme Court and the Court of Appeals. The Supreme Court in JDB v. North Carolina already tells Judges they must consider the age of the Defendant when ruling on the admissibility of statements.

All these Defendants were properly advised of their rights.

What do police do about the sexual child abuse case that occurs between siblings or step siblings? If son is suspected of sexually abusing his sister, how will the police ever get to the truth if the parents have to be consulted prior to questioning? If

questioning is blocked by the parents and a case cannot move forward, more sexual assaults may occur on the sister.

The requirement that the child consult with a private attorney or attorney provided by the public defender before any conversation is practically unrealistic. It will be rare that a child will be able to retain private counsel in a time period conducive to a timely conversation. In addition, the public defenders office will not provide an attorney to a yet uncharged person without a qualification process and more time than practicable. Ironically, this scenario will, on occasion, cause harm to the child. If an officer has sufficient probable cause to arrest or detain, the child may have information which will exonerate him and cause his release. With this legislation, the officer will not be able to talk to the child because he can't locate a parent or an attorney cannot be timely provided to the child.

If they have to wait to contact parents and attorneys, juvenile Defendants will actually be held longer while waiting for contact.

Finally, the bill is constitutionally flawed in that it allows for "simpler" Miranda warnings so the juvenile understands them. The Supreme Court says Miranda is Miranda. Simple warnings are not permitted.

Passing Senate Bill 136 goes well beyond the constitutional protections for all other citizens of the United States. Each of the above Defendant's had an attorney for trial and reviewed the facts of their clients' cases to make sure the constitutional guarantees afforded Defendants had been complied with.

I urge an unfavorable report.