

Written Testimony SB 136 – Judicial Proceedings Committee

For - with amendments submitted by sponsor

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Human Rights for Kids recently released a national report, rating how well of how poorly states were doing at protecting the human rights of kids on the justice system. Maryland was dead last along with Alabama, Mississippi and Georgia, only earning a score of 2 out of 10. One of the areas measured was Due Process, which was defined as:

Having a statutory provision requiring children to consult with their parents or legal counsel before waiving their Miranda Rights or being subject to a custodial police interrogation.

SB136 addresses this very issue. Developmental research suggests that youth may be more susceptible than adults to interrogation pressures because they:

- Are less likely to understand the legal process or their rights;
- Have less impulse control and are prone to more risky behavior;
- Are more susceptible to immediate rewards and have more difficulty in anticipating the consequences of their actions;
- Are more likely to comply with authority;
- Are more susceptible to peer influence.

In a study of youth who self-reported confessing, 38% reported falsely confessing. Of those youth who reported falsely confessing:

- 65% reported interrogations longer than 2 hours;
- 40% reported being intoxicated at the time of questioning; and
- Youth who were refused breaks or were in the presence of friends during questioning were 4 times more likely to report falsely confessing.

Of all youth in the study:

- 66% reported having more than one officer present;
- Only 7% reported the presence of a lawyer.

According to the National Registry of Exonerations:

- 36% of exonerees who were under the age of 18 at the time of the alleged offense had falsely confessed.
- Of all exonerees under 18, 85% were black and 86% were under 14.

SB 316 would provide for:

- Mirandizing a minor using age-appropriate language,
- Notifying a parent/guardian as soon as the minor is placed in custody,
- Require that a minor speak with legal counsel prior to custodial interrogation.

Last year, this bill failed to make it out of committee. Current year SB136, had some extra language under (G) added because of some remarks during testimony regarding instances where a life might be in danger. Not only do I not believe that this language is necessary, I think that this new language oversteps what was intended by the sponsor of this bill and at a very minimum be tightened up. The sponsor submitted amendments would help to mitigate the frequency with which a child would be submitted to custodial interrogation without access to legal representation.