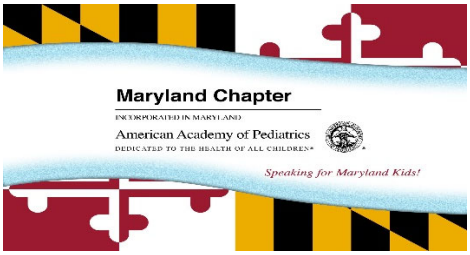

TO: The Honorable Luke Clippinger, Chair
Members, House Judiciary Committee
The Honorable J. Sandy Bartlett

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman

DATE: February 4, 2021

RE: **SUPPORT** – House Bill 315 – *Juvenile Law – Juvenile Interrogation Protection Act*

The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for House Bill 315.

House Bill 315 strengthens the requirements for notification of a child's parent, guardian, or custodian when a child is taken into custody. It also requires the Police Training and Standards Commission to adopt rules concerning age-appropriate language to be used to advise a child of their rights when taken into custody. Further, House Bill 315 provides children in legal custody to have a consultation with an attorney and further clarifies what is permissible with respect to interrogation of a child.

Years of research on brain development has demonstrated that the frontal lobes, which are the seat of reasoned judgment and higher order cognitive decision making, develop late and continue to develop in late adolescence into early adulthood, rendering the adolescent brain consequentially distinct from the adult brain, with implications related to the adolescent's ability to weigh the consequences of a decision to waive counsel. Based on these undisputed findings, the American Academy of Child and Adolescent Psychiatry, in a 2013 policy statement, expressed its belief juveniles should always have counsel present when interrogated by law enforcement (see attached).

The United States Supreme Court has recognized these biological and developmental differences in their recent decisions on the juvenile death penalty, juvenile life without parole, and the interrogations of juvenile suspects. In particular, the Supreme Court has recognized that there is a heightened risk that juvenile suspects will falsely confess when pressured by police during the interrogation process. Research also demonstrates that when in police custody, many juveniles do not fully understand or appreciate their rights, options, or alternatives.

Passage of House Bill 315 will help ensure that minors have the appropriate legal counsel and advice to assist them in responding to a custodial interrogation. MDAAP strongly urges a favorable report.

For more information call:
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Interviewing and Interrogating Juvenile Suspects

Approved by Council, March 7, 2013

Research has demonstrated that brain development continues throughout adolescence and into early adulthood. The frontal lobes, responsible for mature thought, reasoning and judgment, develop last. Adolescents use their brains in a fundamentally different manner than adults. They are more likely to act on impulse, without fully considering the consequences of their decisions or actions.

The Supreme Court has recognized these biological and developmental differences in their recent decisions on the juvenile death penalty, juvenile life without parole and the interrogations of juvenile suspects. In particular, the Supreme Court has recognized that there is a heightened risk that juvenile suspects will falsely confess when pressured by police during the interrogation process. Research also demonstrates that when in police custody, many juveniles do not fully understand or appreciate their rights, options or alternatives.1,2,3,4

Accordingly, the American Academy of Child and Adolescent Psychiatry believes that juveniles should have an attorney present during questioning by police or other law enforcement agencies. While the Academy believes that juveniles should have a right to consult with parents prior to and during questioning, parental presence alone may not be sufficient to protect juvenile suspects. Moreover, many parents may not be competent to advise their children on whether to speak to the police and may also be persuaded that cooperation with the police will bring leniency. There are numerous cases of juveniles who have falsely confessed with their parents present during questioning.

Furthermore, the Academy recommends that when interviewing juvenile suspects, police should use terms and concepts appropriate to the individual's developmental level. Any written material should also be geared to the person's grade level and cognitive capacity. In general, it is not sufficient to simply read or recite information to a juvenile. Ensuring meaningful understanding will usually require asking the individual to explain the information conveyed in his or her own words.

When administering Miranda warnings, many jurisdictions use the version and forms developed for adult suspects. Research demonstrates that these warnings are often too complex and advanced for most juveniles. For this reason, the Academy recommends that police and other law enforcement authorities should utilize simplified Miranda warnings developed specifically for use with juvenile suspects.5 Ideally, an attorney should be present when Miranda Warnings are administered to juvenile suspects.

Finally, the Academy recommends that all interviews of juvenile suspects should be video recorded. The ability to review such a permanent record is integral to the subsequent assessment of the juvenile, his or her comprehension of the Miranda warnings, and the nature, setting and circumstances of the interrogation.

References

1. Grisso, T. "Juveniles' Capacities to Waive Miranda Rights - An Empirical Analysis." California Law Review, 68:6, 1980.
2. Rogers, R., Hazelwood, L., Sewell, K., Shuman, T., and H. Blackwood. "The Comprehensibility and Content of Juvenile Miranda Warnings." Psychology, Public Policy and Law, 14:1, 2008.
3. Grisso, T. "The Competence of Adolescents as Trial Defendants." Psychology, Public Policy and Law, 3:1, 1997.
4. Viljoen, J.L., Zapf, P.A. and R. Roesch. "Adjudicative Competence and Comprehension of Miranda Rights in Adolescent Defendants: A Comparison of Legal Standards." Behav. Sci. Law, 25:1-19.
5. Report 102B of the Criminal Justice Section of the American Bar Association, February 2010.

Example of a simplified Miranda Warning: (5)

1. *You have the right to remain silent. That means you do not have to say anything.*
2. *Anything you say can be used against you in court.*
3. *You have the right to get help from a lawyer.*
4. *If you cannot pay a lawyer, the court will get you one for free.*
5. *You have the right to stop this interview at any time.*
6. *Do you want to have a lawyer?*
7. *Do you want to talk to me?*