

Testimony Concerning SB 136
“Juvenile Law – Juvenile Interrogation Protection Act”
Submitted to the Senate Judicial Proceedings Committee
February 4, 2021

Position: SUPPORT

Dear Senator Carter,

I, Emily Luft, strongly support SB 136. I am a graduate student at the University of Maryland, Baltimore, where I am getting my master’s degree in social work focusing on children and families. I also currently intern at the Office of the Public Defender in Baltimore with the social work team, working with juveniles involved in the system. This testimony represents my own views based on a review of the available research and does not necessarily represent the views of the University of Maryland, Baltimore or the Office of the Public Defender.

Miranda warnings give individuals protection who are in custody and are suspected of a crime, allowing those individuals the choice to remain silent and wait for an attorney to be assigned to them in order to not potentially incriminate themselves. Though Miranda warnings are now a hallmark of the criminal justice system and read to individuals in custody or about to be interrogated, there are concerns that juveniles waive their Miranda rights without fully understanding the consequences of that waiver.

SB 136 builds on the precedents of cases such as *In re Gault*, *Roper v. Simmons*, *Graham v. Florida*, and *J.D.B v. North Carolina*. *In re Gault* grants juveniles the same protections as adults in the criminal justice system, and the other three cases define and expand on how juveniles are fundamentally different from adults due to their immaturity, underdeveloped sense of responsibility, and a greater susceptibility to influence by peers and other factors. Given these stated differences stemming from these cases, it is necessary to take these factors into consideration when giving Miranda warnings to juveniles, as well as taking the steps to protect juveniles through the means SB 136 offers with notification of the juvenile’s guardian(s) as well as making sure the juvenile has access to an attorney. An analysis of Miranda comprehension among juveniles done in 2015 by Zelle, et al. suggests that the vast majority of youth struggled with various words in the Miranda warnings, and youth are generally at risk for misunderstanding Miranda warnings. The right to remain silent is a common misunderstanding with youth, believing that being silent will hurt them in the long run. The study also found that youth misunderstand the role of a defense attorney and their role played for a youth’s defense. Overall, this study found that there are various aspects of Miranda warnings that youth do not fully understand or comprehend, in line with other studies done on the topic. A national survey published in 2005 explored the issue of juveniles incarcerated with a disability and found that on average the prevalence rate of youth with a disabling condition was around 33.4%. The top two disabilities in youth at these facilities were emotional disturbance and specific learning disabilities. The prevalence of disabilities in incarcerated youth should raise concerns about the ability of juveniles to fully comprehend the proceedings of the justice system, given the high rates of learning disabilities along with emotional disturbance in youth, which contributes to their lack of understanding of the legal system. 22% of school related arrests involve students with

disabilities despite only making up 11% of the student population, and students with disabilities are referred to law enforcement 16% more often compared to students without disabilities.

The US criminal justice systems already make the distinction between juveniles and adults, giving juveniles extra protections due to their developing brains. Juvenile's developmental trajectory make them more vulnerable to coercive interrogation practices and less likely to understand the consequences of waiving their Miranda rights. Additionally, justice-involved youth tend to be more vulnerable and often have higher rates of disabilities when entering the system compared to the general public. SB 136 would afford greater protection to juveniles when taken into law enforcement custody. These protections not only shield the Constitutional rights of the juvenile but uphold the integrity of the justice system.

For these reasons, I urge your favorable consideration of SB 136.

Respectfully,

Emily Luft