



## Testimony for the House Judiciary Committee

February 4, 2021

### HB 315 – Juvenile Law – Juvenile Interrogation Protection Act

#### FAVORABLE

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The ACLU of Maryland supports HB 315, which would require a law enforcement officer who takes a child into custody to provide notice to the child's parents, guardian, or custodian and prohibit the custodial interrogation of the child by a law enforcement officer until the child has consulted with an attorney.

Every day in Maryland, children entangled in the criminal legal system are questioned without a parent or attorney present. As a result, they face criminal charges, prosecution, and incarceration without the basic due process rights that adults are entitled to.

The right to counsel for children was established in 1967 with the landmark case *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428 (1967). The Supreme Court held in *Gault* that children have the right to remain silent and that no child can be convicted unless compelling evidence is presented in court, under the due process clause of the 14th amendment. Yet, in Maryland, law enforcement is not required to call parents or attorneys before a child is interrogated.

#### **Black children are particularly harmed in the criminal legal system**

This lack of protection for children is on full display, due to the various touchpoints and interactions that children, especially Black children, have with law enforcement. 90% of all complaints against Black children are filed by the police (including school police and school resource officers).<sup>1</sup> In addition, Black students are more likely to be arrested in school than all other racial or ethnic groups combined.<sup>2</sup>

#### **Children make better decisions with legal support**

Studies show that children waive their Miranda rights at a rate of 90% and make false confessions at a higher rate than adults.<sup>3</sup> Although arrests of youth

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<sup>1</sup> <https://djs.maryland.gov/Documents/DRG/Youth-of-Color.pdf>

<sup>2</sup> <http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20172018.pdf>, p. 125

<sup>3</sup> <https://abcnews.go.com/US/30000-children-age-10-arrested-us-2013-fbi/sto-ry?id=65798787>

have declined, there are still over 30,000 children under the age of 10 that have been arrested in the U.S. from 2014 to 2018.<sup>4</sup> In Maryland, children as young as seven years old can be ensnared in the criminal legal system.<sup>5</sup>

Children are our most vulnerable population and must be provided the necessary protections under the law and the right to due process. This includes putting the proper mechanisms in place, so that when law enforcement must interrogate a child, the child has consulted with an attorney and their parents or guardians are notified. This bill will begin to safeguard against the lack of experience, judgement, and developmental maturity that youth have, and protect them for entanglement in the criminal legal system.

For the foregoing reasons ACLU of Maryland urges a favorable report for HB 315.

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<sup>4</sup> [https://www.ojjdp.gov/ojstatbb/structure\\_process/qa04102.asp?qaDate=2016](https://www.ojjdp.gov/ojstatbb/structure_process/qa04102.asp?qaDate=2016)

<sup>5</sup> <https://njdc.info/wp-content/uploads/2013/11/Final-Maryland-Assessment-Report.pdf>

