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January 28, 2022

The Honorable Chairman Luke H. Clippinger
House Judiciary Committee
Taylor House Office Building
Room 101
6 Bladen St., Annapolis, MD 21401

Re: HB 269 (Bartlett) –Childhood Interrogation Protection Act – SUPPORT

Dear Chairman Clippinger and Honorable Members of the Committee:

On behalf of the Anti-Recidivism Coalition, I write to express our support for HB 269, Childhood Interrogation Protection Act. This bill would preserve children's constitutional rights.

Law, science, and common experience conclude that, as compared to adults, children are less capable of understanding their rights. This makes them significantly more vulnerable to giving false statements in response to interrogation. According to the [National Registry of Exonerations](#), 36 percent of exonerated youth had falsely confessed to a crime they did not commit, compared with 10 percent of adults. Nearly all children under 14 who were later exonerated of having committed a crime had falsely confessed. Similarly, nearly 60 percent of 14 and 15-year-old children in the same situation gave a false confession.

This bill would require law enforcement to make good faith efforts to notify parents or guardians that their child will be subject to interrogation; allow a child to consult with counsel prior to waiving their rights; and encourage Maryland courts to adopt age-appropriate language for children to understand their rights.

Every day in Maryland, children entangled in the criminal legal system are questioned without a parent being notified or attorney present. Although youth of all races commit offenses at roughly the same rates, African American youth are arrested at much higher rates than any other racial group in this state, and therefore are at particularly high risk of facing police interrogations and coercion. As a result, Black children face criminal charges, prosecution, and incarceration without the basic due process rights that adults are entitled to.



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The Anti-Recidivism Coalition (ARC) helps currently and formerly incarcerated people to thrive by providing a supportive network, comprehensive reentry services, and opportunities to advocate for policy change. Our advocacy efforts work towards making our communities safe, healthy, and whole.

In 2020, California passed a law requiring youth under 18 to consult with an attorney before waiving their rights. The legislation was passed with bipartisan support while recognizing that these protections make our communities safer. The California legislature took into consideration testimony (Appendix A) from San Francisco District Attorney Chesa Boudin stating that "as already fully implemented in San Francisco, I know that these protections make our community safer and have not diminished my office's ability to prosecute serious and violent crimes".

By allowing youth to understand their rights, we can ensure the outcome of interrogations are just and lawful, creating greater trust, accountability, and due process for all. For these reasons, we support HB 269 and respectfully requests a favorable report.

Sincerely,

Michael Mendoza
Director of National Advocacy
Anti-Recidivism Coalition
mmendoza@antirecidivism.org



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APPENDIX A

CHESA BOUDIN
District Attorney

OFFICE OF THE DISTRICT ATTORNEY



July 27, 2020

The Honorable Reginald B. Jones-Sawyer, Sr.
California State Assembly Member
Chairperson, Assembly Public Safety Committee
State Capitol, Room 111
Sacramento, CA 95814

Fax: 916.319.3745

RE: Support for Senate Bill 203 (Bradford) *Protecting youth in police custody*
Assembly Public Safety Committee

Dear Chairperson Jones-Sawyer,

I am the elected District Attorney of San Francisco and my mission is to make our city safer and more just for all. To achieve this, I work to build a justice system that recognizes the rights of every individual in our community. I believe we can create a system that our community trusts.

This is why I am pleased to support SB 203, a bill that would ensure youth in police custody understand their rights before deciding whether to give them up. Senate Bill 203 seeks to raise to age 18 protections that already exist in state law for youth under the age of 16. I am especially qualified to speak to the effect of SB 203 because in 2019 the San Francisco Board of Supervisors unanimously passed an ordinance raising to age 18 the same protections envisioned by SB 203. San Francisco Administrative Code §96C protects youth in the custody of police by ensuring they speak with a lawyer before officers conduct interrogation.

I support the establishment of this protection in law and believe it is essential for three reasons: first, youth are still neurologically and socially developing, and young people often do not understand their rights or the consequences of waiving them. Second, the significant power differential between youth—especially Black, Indigenous and youth of color—and armed police officers makes it hard for young people to assert their rights or knowingly and voluntarily waive them. Third, upholding the constitutional rights of our citizens is a critical component of building trust between law enforcement and our communities.

I know some people argue that if youth understand their rights, they will be less likely to waive them, and prosecutors may have fewer confessions in cases they prosecute. First, I object to this reasoning as undermining of the most basic tenets of our justice system. If people waive their rights without understanding them, then those rights are meaningless. More than 50 years ago, the U.S. Supreme Court stated in *Miranda v. Arizona*, "Those who framed our Constitution and the Bill of Rights were ever aware of subtle encroachments on individual liberty. They knew that 'illegitimate and unconstitutional practices get their first footing...by silent

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approaches and slight deviations from legal modes of procedure.” Ensuring that youth understand their rights guarantees that California is upholding the Constitution.

Second, prosecutors rely less and less on confessions to win cases. The near ubiquitous presence of security cameras, increasing existence of electronic information, and better forensic evidence have all pushed confessions from the first tier of tools for prosecutors. There is no question, of course, that a confession lawfully obtained makes proving a case easier. But those of us who value the Constitution over easy wins are bound to support the type of law that SB 203 seeks to enact.

Existing case law and constitutional provisions do not adequately protect the rights of youth, especially those youth experiencing poverty or who are Black, Indigenous, and youth of color. Anachronistic case law largely ignores what the science tells us about youth development and disregards that fact that young people and law enforcement are never on equal footing in an interaction.

Senate Bill 203 rectifies this problem by considering both the brain science and the power dynamic when youth are in the custody of law enforcement. It makes young people’s constitutional rights meaningful by connecting them to a lawyer who will help them understand these rights. As already fully implemented in San Francisco, I know that these protections make our community safer and have not diminished my office’s ability to prosecute serious and violent crimes. I urge your support of this bill.

Sincerely,

Chesa Boudin
District Attorney

CC: Assembly Member Tom Lackey (Vice Chair)
Assembly Member Rebecca Bauer-Kahan
Assembly Member Tyler Diep
Assembly Member Sydney Kamlager-Dove
Assembly Member Bill Quirk
Assembly Member Miguel Santiago
Assembly Member Buffy Wicks
Senator Steven Bradford