

Bill Number: SB 22
Maryland States Attorneys Association
Opposed

WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS ASSOCIATION
IN OPPOSITION TO SENATE BILL 22
CRIMINAL PROCEDURE-CUSTODIAL INTERROGATION-CODIFICATION

The Maryland States Attorneys Association is opposed to Senate Bill 22, Criminal Procedure-Custodial Interrogation-Codification as a completely unnecessary and over extensive piece of legislation which would seriously impact the enforcement of all of the laws of this State.

Senate Bill 22 would enact into law a significant restriction on the ability of a police officer to talk to a person who may have committed a crime. The bill would redefine what custodial interrogation is and would be contrary to existing law. The bill would then require an advisement of any person to whom a police officer wishes to speak if the person feels they are not free to leave. The bill then appears to require that the advisement be in writing and if the person refuses to sign the advisement, then the refusal has to be recorded by video or audio recording.

As previously noted, the statute proposes its' own definition of custodial interrogation. It ignores the body of law from appellate courts for the last 56 years since Miranda v Arizona which has carefully and specifically defined custodial interrogation. With this legislation, every time anyone reasonably feels that they are not free to leave, they must be advised of their Miranda rights. This would logically include every traffic stop. If an officer pulls a car over, the officer must advise the person of their rights (apparently in writing) before they can ask the person their name or if they have been drinking. If an officer responds to a school shooting and stops the people running away from the shooting, the officer has to advise all of them of their rights before the officer can ask them what is happening or where the gun is that just shot a number of people.

It is wholly unreasonable to require an officer to have written advisement forms on them while they are out in the public and responding to emergencies or life-threatening situations. This bill would mean that any statement of a person arrested for an offense on the street cannot be used against the person if the statement or comment is in any way connected to a question by the officer even if the person was advised of their rights but the officer didn't have the written form.

There are so many appropriate exceptions to the advisement requirement in questioning of a person by law enforcement developed over the years and for very valid purposes. The United States Supreme Court and the Supreme Court of Maryland have addressed those exceptions since Miranda and for valid and constitutional reasons.

This bill would eliminate all of those exceptions. The protection of the public would be vastly affected.

We urge an unfavorable report.