

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 76  
Custodial Interrogation of Minors – Admissibility of Statements  
**DATE:** January 18, 2023  
(1/26)  
**POSITION:** Oppose

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The Maryland Judiciary opposes House Bill 76. This bill would establish a rebuttable presumption that a statement made by a minor during a custodial interrogation is both involuntary and inadmissible in a juvenile or criminal proceeding against the minor if the law enforcement officer intentionally used information known by the officer to be false in order to elicit the statement.

The Judiciary recognizes that there are legitimate policy issues, within the purview of the legislative branch of government, connected with the interrogation of juveniles. However, it is somewhat unclear how the court would analyze voluntariness under the bill. Voluntariness is generally determined based on well-established jurisprudence and, ultimately, is a question for the factfinder. This bill would invade the province of juries who are tasked with such ultimate determinations.

It further raises questions in application including whether the knowledge of other members of the law enforcement agency that information is false should be imputed to the law enforcement officer who used information. Moreover, will the veracity of the information, or its falsehood, become an issue that must separately be litigated prior to the statement?

The Judiciary is also concerned that the bill would create a disparity between treatment of defendants in criminal cases charged in adult circuit court, based on age. For example, during a suppression hearing in a murder case, the statement by a minor is analyzed differently than a statement by an adult. This disparity becomes more apparent if the individuals are co-defendants.

Finally, this bill is unnecessary as Chapter 50/Senate Bill 53 from 2022 addressed some of these issues and strengthened the protections for minors in these cases.

cc. Hon. Gabriel Acevero  
Judicial Council  
Legislative Committee  
Kelley O'Connor