



Maryland State's Attorneys' Association

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DATE: **January 26, 2023**

BILL NUMBER: **HB 76**

POSITION: **Oppose**

The Maryland State's Attorney's Association (MSAA) opposes HB 76.

Established U.S. Supreme Court precedent is clear that even if a suspect's *Miranda* rights are knowingly, voluntarily and intelligently waived, those rights remain throughout any custodial interrogation and may be asserted at any point. Further, there is an illogical construct that arises when a suspect waives *Miranda* but then asserts that the statement was involuntarily made due to the action or inaction of law enforcement. See, *Colorado v. Spring*, 479 U.S. 564 (1987).

HB 76 is predicated on the fiction that suspects do not have the ability to invoke the privilege against self-incrimination at any point during a custodial interrogation. This is especially salient when the question of whether any utilized false information invalidates the entire exchange or a specific statement would be subject to endless litigation, when the necessity of arguing against such a notion is mitigated by the inherent right of the suspect to simply not answer and invoke *Miranda*.

Further, the General Assembly passed a sweeping juvenile custodial interrogation decree last session which mandates the provision of an attorney prior to any advisement. Assuming that a suspect would actually waive *Miranda* following an interaction with an attorney, that attorney would presumably be available throughout any law enforcement interaction, which enhances the protections guaranteed by the 5th Amendment of the Constitution and renders this legislation unnecessary.

In short, in light of the above and the passage of the Juvenile Custodial Interrogation Act, HB 76 seems to be an answer in search of a problem.