

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 169
Custodial Interrogation of Minors – Admissibility of Statements
DATE: January 18, 2024
(2/8)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 169. 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