

Testimony in *Opposition* of Senate Bill 531 (Unfavorable)
Juvenile Law – Custodial Interrogation (Juvenile Justice Restoration Act of 2025)

To: Senator William C. Smith, Jr., Chair, and Members of the Judicial Proceedings Committee

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I am a student attorney in the Youth, Education, and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents children who have been excluded from school through suspension, expulsion, and other means, as well as individuals who are serving life sentences for crimes they committed when they were children or young adults. I write in opposition of Senate Bill 531, which seeks to repeal the portion of the Child Interrogation Protection—enacted in 2022—that requires a child to consult with an attorney before they can be subjected to custodial interrogation.¹ The Maryland General Assembly understood the attorney’s role as critical to ensuring that children are fully informed of their rights during custodial interrogations. Accordingly, under Maryland law, the attorney informs and advises the child of their rights so that the child is best positioned to decide how to proceed. SB 531 seeks to remove the decision-making power from children and allow parents, guardians, or custodians to consent to the custodial interrogation of their child. Essentially, SB 531 seeks to exclude a child from the critical decision of whether and how to proceed with a custodial interrogation and have a parent stand in the place of a trained attorney.

Custodial interrogations are high-stakes situations that impact liberty. As such, *adults* enjoy the constitutional right against self-incrimination as well as Miranda warnings to provide notice of the rights and protections afforded to them in custodial interrogations. However, studies have found that many adults do not actually understand their Miranda rights.² While these studies focused on adults who themselves were subjected to custodial interrogations, they point to the reality that many parents do not fully understand the rights and protections afforded to their children in the custodial interrogation context. Yet, SB 531 would allow parents to consent to law enforcement officers interrogating their children. In addition, custodial interrogations are inherently stressful. Given these pressures, there is a serious question of whether a parent in this circumstance can truly consent to their child’s custodial interrogation.

Because custodial interrogations are inherently stressful and pressure-filled, children are particularly susceptible to coercion and providing false or otherwise involuntary statements.

¹ The Child Interrogation Protection Act is codified in MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-14.2.

² See, e.g. Richard Roberts et. al., “*Everyone Knows Their Miranda Rights*”: *Implicit Assumptions and Countervailing Evidence*, 16 PSYCHOL. PUB. POLICY & L. 300, 313-14 (2010) (finding that most adults have a baseline understanding of their Miranda rights but do not fully understand what those rights mean); Thomas Grisso, *Juveniles’ Capacities to Waive Miranda Rights: An Empirical Analysis*, 68 CAL. L. REV. 1134, 1153-54 (1980) (finding that 23.1% of adults failed to understand at least one of the Miranda warnings).

Children are more likely to confess to crimes that they did not commit than adults.³ Because their brains are not fully developed, children are unable to fully grasp the potential consequences of providing statements to law enforcement.⁴ Thus, allowing parents to waive their child's right to consult with an attorney would increase the risk of involuntary statements as well as false confessions. Given these circumstances, children must consult with an attorney, who can explain (and translate) their constitutional rights and counsel accordingly.

These realities are precisely why Maryland law *requires* that a child consult with an attorney before they are subjected to custodial interrogations. Most parents do not fully understand the potential legal consequences of these interrogations facing their child or how to even explain these consequences (as well the rights that protect against them) to their child. When children are sick, their parents take them to doctors, who assess their condition, diagnose, and prescribe a course of action. When children are struggling with schoolwork, some parents seek help from teachers or hire tutors. Parents understand that not only do they not have all the answers, but that a trained professional is better able to address the issues. Likewise, parents are not the best situated to decide whether or not to waive their child's constitutional rights in custodial interrogation settings. Lawyers are best positioned to counsel a child, and their parents, accordingly.

SB 531, if enacted, would be a critical step backward for Maryland law and justice. Children and our criminal legal system need the critical safeguards set forth in the Child Interrogation Protection Act regarding custodial interrogations. For the reasons set forth above, the Clinic asks for an unfavorable report.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

³ *E.g.*, NEYDIN MILIAN, ACLU OF MARYLAND, GET ALL THE FACTS ON CHILDREN'S DUE PROCESS RIGHTS DEFEND THE CHILDHOOD INTERROGATION PROTECTION AND JUVENILE JUSTICE REFORM ACTS, Feb. 8, 2024, <https://www.aclu-md.org/en/news/get-all-facts-childrens-due-process-rights>;

⁴ *See, e.g.*, NIGEL QUIROZ, INNOCENCE PROJECT, FIVE FACTS ABOUT POLICE DECEPTION AND YOUTH YOU SHOULD KNOW (May 13, 2022) ("Young people are especially vulnerable to falsely confessing under the pressure of deception because the parts of the brain that are responsible for future planning, judgement, and decision-making are not fully developed until a person reaches their mid-twenties"), <https://innocenceproject.org/police-deception-lying-interrogations-youth-teenagers/#:~:text=But%20why%20would%20police%20lie,as%20the%20Central%20Park%20Five>). *See generally*, Megan Crane et al., *The Truth About Juvenile False Confessions*, 16 INSIGHTS ON L. & SOC'Y (Winter 2016) https://www.prisonpolicy.org/scans/aba/Juvenile_confessions.pdf.