Testimony in *Support* of Senate Bill 512 (Favorable)
Custodial Interrogation of Minors – Admissibility of Statements

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 support of Senate Bill 512, which seeks to establish a rebuttable presumption that a statement made by a minor during a custodial interrogation is involuntary and inadmissible against them in a youth or criminal proceeding if the law enforcement officer intentionally used false information to elicit the minor's statement.

SB 512 is an extension of the Child Interrogation Protection Act ("CIPA").[1] CIPA recognizes that children in custodial settings are especially vulnerable and protects them against undue pressure that leads to involuntary statements. SB 512 recognizes that children are particularly susceptible to intentional law enforcement deception, furthering the risk of involuntary statements used against them in youth and criminal proceedings.

Children are more likely than adults to confess to crimes that they did not commit.[2] Prominent examples of cases in which children were wrongly convicted after providing false statements to law enforcement as a result of deception or coercion include the now Exonerated Five, and Harlem Park Three.[3] Among other things, the power imbalance between interrogating officers and children and the inherent pressure of these moments contribute to involuntary statements. Indeed, even without officers intentionally using false information, studies show that

[1] The Child Interrogation Protection Act is codified in MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-14.2.
[2] *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;
[3] Aisha Harris, *The Central Park Five: We Were Just Baby Boys',* N.Y. TIMES, May 30, 2019, https://www.nytimes.com/2019/05/30/arts/television/when-they-see-us.html; David M. Reutter, *$56.7 Million Awarded to "Harlem Park Three," Exonerated of Baltimore Murder After 36 Years in Prison,* PRISON LEGAL NEWS, July 1, 2024, https://www.prisonlegalnews.org/news/2024/jul/1/567-million-awarded-harlem-park-three-exonerated-baltimore-murder-after-36-years-prison/

children do not fully understand the *Miranda* warnings.[4] Because their brains are still developing, children are unable to fully grasp the ramifications of providing statements to law enforcement.[5]

Given the brain science, the inherent pressure of a custodial setting, and the heightened pressure of a custodial setting for a child, in no circumstance should law enforcement officers be permitted to intentionally use false information during a custodial interrogation of a child. History is replete with examples of children folding under pressure and confessing falsely. In this light, SB 512 is a modest, yet vitally important, intervention. It merely creates a presumption of inadmissibility for a child's statement made in a custodial interrogation setting after an officer has intentionally used false information to elicit the statement. It then places the burden on the State to rebut the presumption by clear and convincing evidence that the statement was voluntary. SB 512 removes the responsibility from the child to overcome the burden of showing that their testimony was due to police deception.

SB 512, if enacted, would be an important step forward. For the reasons set forth above, the Clinic asks for a favorable 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.

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[4] *See* Kevin Lapp, *Taking Back Juvenile Confessions,* 64 U.C.L.A. L. REV. 902, 914 (2017) ("Overwhelming empirical evidence shows that [children] do not understand their constitutional privilege against self-incrimination, or the consequence of waiving their rights."); Bary C. Feld, *Police Interrogation of Juveniles: An Empirical Study of Policy and Practice,* 97 J. CRIM. L. & CRIMINOLOGY 219, 228 (2006) ("Because many [children] do not understand the Miranda warning, they cannot exercise their rights as effectively as adults, who better understand the warning.").

[5] *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.