



## Testimony for the Senate Judicial Proceedings Committee

February 7, 2025

### SB 531 — Juvenile Law - Custodial Interrogation (Juvenile Justice Restoration Act of 2025)

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### OPPOSE

The ACLU of Maryland (ACLU) opposes SB 531, which would allow law enforcement officers to conduct a custodial interrogation of a child if the child's parent, guardian, or custodian provides consent without the child's consultation with an attorney.

Currently, the Child Interrogation Protection Act (CIPA), requires that law enforcement contact an attorney when a child is taken into custody for an interrogation, to ensure that the child understands their Miranda rights in age and development-appropriate terms. The Office of the Public Defender (OPD) established a hotline that is open every day throughout the day and night so that an attorney can be contacted at any time.

CIPA already guarantees that law enforcement has the tools that it needs to address imminent and serious public safety concerns. If there is a reasonable belief that a child has information about a serious threat to public safety, there is an exception in the law that allows the police to ask questions without first notifying the child's parent, guardian, or custodian, and without first allowing the child to consult with an attorney.<sup>1</sup> Law enforcement is limited to asking questions related to the suspected safety threat.

SB 531 would allow law enforcement to skirt the requirement of ensuring legal consultation for a child taken into custody, which would essentially remove an indispensable layer of protection for that child. SB 531 would likely increase the rate of false confessions given to law enforcement during an interrogation. Law enforcement is known to use confusing tactics and threats during interrogations, which puts a significant amount of stress and anxiety on children — and on their parents if they are

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<sup>1</sup> COMAR § 3-8A-14

present. Children and parents whose first language is not English experience an additional layer of anxiety.

One study showed that children are three times more likely to falsely confess than adults during a custodial interrogation.<sup>2</sup> Legal consultation is needed to not only guarantee that the child understands their Miranda rights, but also to ensure that the child is not coerced into giving false information. False confessions do not help law enforcement solve cases nor do they help with improving public safety.

A child's Miranda Rights belongs solely to the child, and not their parents'. And while many would believe that a parent or guardian can offer sound advice for their child, researchers have found that adults often lack the knowledge to fully understand and adequately advise children on the risks associated with waiving their rights.<sup>3</sup> In one study, a significant number of adults demonstrated numerous misconceptions about their Miranda rights.<sup>4</sup> Many adults did not know that their right to remain silent is safeguarded by the Constitution, and believed that choosing to remain silent could be used against them. Close to half of adults also fumbled when trying to understand the legal terminology associated with their Miranda rights. Further, a child may also feel pressured to speak by their parent or guardian, which could mislead or harm the child and/or the investigation.

For the foregoing reasons, the ACLU of Maryland requests an unfavorable vote on SB 531.

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<sup>2</sup> What's Best for Kids is Best for Everyone. January 2024. Maryland Youth Justice Coalition. [https://www.md youthjustice.org/\\_files/ugd/42b2a9\\_db7a00a63fe74865a401276619ec705b.pdf](https://www.md youthjustice.org/_files/ugd/42b2a9_db7a00a63fe74865a401276619ec705b.pdf)

<sup>3</sup> Sahdev, Hana. M. *Juvenile Miranda Waivers and Wrongful Convictions* *Journal of Constitutional Law*. May 2018. Vol. 20:5.

<https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1667&context=jcl#:~:text=As%20compared%20to%20adults%2C%20juveniles,children%20from%20providing%20false%20confessions.>

<sup>4</sup> Rogesrs, Richard et al. (2013) .*General Knowledge and Misknowledge of Miranda Rights: Are Effective Miranda Advisements Still Necessary?* Psychology, Public Policy, and Law | 2013, Vol. 19, No. 4, 432-442

<https://concept.paloaltou.edu/resources/translating-research-into-practice-blog/most-americans-do-not-have-a-complete-understanding-of-their-miranda-rights/#:~:text=Author-,Most%20Americans%20do%20not%20have%20a%20complete%20understanding%20of%20their,%20of%20this%20research%20into%20practice.>