



Senate Bill SB531
Position: UNFAVORABLE
February 7, 2005

Dear Chairman Will Smith and members of the Committee,

The Maryland Youth Justice Coalition (MYJC) is a diverse array of organizations dedicated to preventing children and adolescents from becoming involved in the legal system, upholding the highest standards of care when children do enter the legal system, and ensuring a platform for system-involved youth and their families to be heard. MYJC strives for a Maryland where no children are at risk of system involvement and, if they are involved with the legal system, they and their families receive every possible opportunity to define and live safe, healthy and fulfilling lives through restorative practices supported by our state and local communities.

The Maryland Youth Justice Coalition opposes SB531. In 2022, this legislative body passed the Child Interrogation Protection Act (CIPA), which affirmed and protected the constitutional rights of children in police custody. Some of the arguments made in favor of CIPA included the high rate of false confessions, inability to fully understand constitutional rights, and pressure to comply with adults in positions of authority. Many individuals, policy and legal experts testified about the alarming data on rates of false confession, children not understanding or misunderstanding their constitutional rights, and brain development.

Many youths alleged to have committed a crime falsely confess during interrogation due to fact that they simply desire to alleviate themselves from the high-pressure situation of undergoing interrogation by law enforcement. In fact, ninety percent (90%) of youth waive their Miranda rights when asked, mainly for lack of understanding or not wanting to admit that they don't understand the law. In the direct context of system-involved youth, the Supreme Court has stated that "As compared to adults, juveniles have a 'lack of maturity and an underdeveloped sense of responsibility'; they 'are more vulnerable or susceptible to negative influences and outside pressures'" *Graham v. Florida*, 560 U.S. 48, 68 (2009)(quoting *Roper v. Simmons*, 543 U. S. 551, 569–570 (2005).

The fact that youth have not yet undergone the same brain development as adults is well-settled in both medical, psychological and legal circles. Which is why additional efforts need to be made to ensure that children understand their rights before

agreeing to participate in an interrogation, which requires that children are provided with an age appropriate explanation of their rights and can confirm that they understand their rights before they decide whether they want to participate in an interrogation.

When this legislative body changed Maryland law in 2022 to ensure that youth subject to interrogation by law enforcement were provided consultation with an attorney prior to or during interrogation commensurate with their constitutional rights, one of the considerations was whether parental consent would suffice as an alternative. The answer was a resounding “no,” for the very same reason that youth often offer false confessions: parents encourage them to do so because they believe it will alleviate them from the situation or allow their child to “go home,” often unaware of the consequences. While parents should be informed and present in an interrogation, they cannot be permitted to waive their rights of their child. They also cannot replace legal counsel. Parents may believe they are helping their child by encouraging cooperation with law enforcement, but may inadvertently lead their child to self incriminate.

Lastly, CIPA already provides law enforcement with the tools that they need to conduct a constitutional interrogation, and protect public safety. There is an exemption for imminent threats to safety that allow an interrogation to occur without prior legal counsel, and the law requires the Office of the Public Defender to staff a hotline 24/7 to ensure that counsel is available to youth without creating delays in an investigation.

Criminal charges and convictions leave a lasting impact on a person’s life, even after they are no longer involved with the justice system. Failure to ensure the Maryland’s youngest citizens are safeguarded against unwarranted system-involvement is key to breaking institutional cycles of poverty and marginalization. Making that determination requires proper understanding of the law and legal procedure that only an attorney can provide. Therefore, we request an unfavorable report on SB531.