

Written Testimony for SB 531, Juvenile Law - Custo

Uploaded by: Allan Culver

Position: FAV

Bill Number: SB 531

**Allan J. Culver, Senior Assistant State's Attorney for Carroll County
Favorable**

WRITTEN TESTIMONY OF ALLAN J. CULVER,
SENIOR ASSISTANT STATE'S ATTORNEY FOR CARROLL COUNTY,
IN FAVOR OF SENATE BILL 531 – JUVENILE LAW – CUSTODIAL
INTERROGATION

I write in favor to Senate Bill 531, Juvenile Law – amending the original Juvenile Interrogation Act of 2022. The amendment would allow a juvenile's parent, guardian, or custodian to waive the requirement that the juvenile must consult with an attorney prior to any custodial interview. A parent, guardian or custodian is in a better position to know what is in the best of their child than some attorney on a call in line run by the Office of the Public Defender that is usually relied on to advise the juvenile.

Almost always, the attorney advising the juvenile has never met him or her. The attorney most likely may not even appear in person, as the majority of these attorney/juvenile consultations take place over a phone call. Why even involve some stranger/attorney if the parent, guardian or custodian is ready and available to act in the best interest of their child?

It is the inalienable right of parents, guardians or custodians to raise their child as they see fit. Parents, guardians or custodians of a child, are expected to teach a child right from wrong. Parents, guardians and custodians are also tasked with advocating for their child. If a parent or guardian believes or does not believe that the child should speak to law enforcement without an attorney, then they are in the best position to make that decision.

Above and beyond the Juvenile Interrogation Act, law enforcement is still required to advise a suspect in custody of their *Miranda* right. Currently, the great majority of interrogations are often audio and visually recorded. There are other safeguards in place to ensure that a suspect's constitutional rights are upheld. These rights are no different for a juvenile.

Questioning witnesses and suspects is an important tool in law enforcement investigations to reach the truth and obtain a just outcome. Statements given by suspects are not only used at trial but are often used to further investigations. Information that law enforcement officers receive from questioning individuals involved in a criminal investigation may lead to the recovery of evidence and the identification of other suspects. This benefit is no different with juveniles.

In Carroll County, we had an attempted murder case where during their interrogations the juvenile suspects admitted to having a "hit list" of other targets. By receiving this information, law enforcement was able to notify these individuals on the hit list and take measures to ensure their safety prior to any possibility of the juveniles being released into the community.

Statements given by juveniles during criminal investigations can also work to the juvenile's benefit. In 2018 I handled a home invasion case where a juvenile and four adult codefendants had a firearm, broke into a home, and took items from the home. The juvenile suspect was detained and agreed to provide a statement. The juvenile's statement limited the juvenile's culpability in the case. Based upon the juvenile's statement, law enforcement was

able to confirm the juvenile's limited culpability which significantly benefited the juvenile in the disposition of the case.

I urge a favorable report to Senate Bill 531 as a parent, guardian or custodian is in the best position to advocate for their child.

MCPA - MSA SB 531 Juvenile Justice Restoration Act

Uploaded by: Andrea Mansfield

Position: FAV



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chair and
Members of the Senate Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 7, 2025

RE: **SB 531 - Juvenile Law - Custodial Interrogation (Juvenile Justice
Restoration Act of 2025)**

POSITION: **SUPPORT**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) SUPPORT SB 531. This bill will allow a law enforcement officer to conduct a lawful custodial interrogation without an attorney present if the child's parent, guardian, or custodian consent.

Throughout the past few years, the state has seen a spike in juvenile crimes that have left communities in fear and officials frustrated. Meetings have been held in local communities and Annapolis in an attempt to sort out the issues and propose solutions. Law enforcement has either participated in or closely followed these discussions. It became apparent that there was not one failing. There are gaps in the system, broken lines of communication and coordination, and a lack of necessary resources and services. The solutions must strike a balance between ensuring that juveniles receive the support and services they need and face the appropriate level of accountability for their actions.

Currently, custodial interrogation is prohibited unless the child has consulted an attorney and the child's parents have been notified. The Juvenile Justice Restoration Act strikes a necessary balance between ensuring the rights of juveniles are protected and that law enforcement is able to effectively carry out their duties.

The solution for the rise in juvenile crime is not one-size-fits-all. It will involve closing gaps, improving communication and collaboration, and increasing resources and services. All stakeholders must play their part to fix the system.

For these reasons, MCPA and MSA urge a **FAVORABLE** report on SB 531.

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SB 531 - MSAA Favorable.pdf

Uploaded by: Patrick Gilbert

Position: FAV



Maryland State's Attorneys' Association

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Rich Gibson
President

Steven I. Kroll
Coordinator

DATE: February 5, 2025

BILL NUMBER: SB 531

POSITION: Favorable

The Maryland State's Attorneys' Association (MSAA) supports Senate Bill 531 and urges this Committee to issue a favorable report.

The Child Interrogation Protection Act, enacted in 2022, requires juveniles to speak with an attorney before participating in a custodial interrogation, and has functionally eliminated the ability of investigators to speak with juvenile suspects. Maryland's prosecutors opposed this bill out of concern that it would end a longstanding, and constitutional, technique used by law enforcement to investigate crime, identify perpetrators (including adult coconspirators), and protect public safety – indeed, after the bill passed, many jurisdictions across Maryland have not had even one juvenile agree to speak to investigators after the required consultation with an attorney.

SB 531 represents a new approach that better balances a juvenile suspect's rights with the importance of investigative interviews to public safety, all in a way calibrated to assist the truth-seeking and accountability functions of the criminal legal process. Recognizing a core truth – an attorney, after a brief consultation over the phone, will not understand a child as well as their parent – SB 531 involves parents early in an investigation and affords them the chance to allow their children to speak to investigators. Nothing in this bill requires juvenile suspects to speak to investigators, and courts will still serve the gatekeeping function they have always served in reviewing statements provided in custodial settings to ensure they were voluntarily given. Because the totality of the circumstances analysis required in evaluating these statements and the parental consent provisions of SB 531 provide adequate safeguards to permit custodial interviews of juveniles suspected of committing a crime, MSAA urges this Committee to issue a favorable report.

SB 531 - Juvenile Law - Custodial Interrogation.pd

Uploaded by: Scott Shellenberger

Position: FAV

Bill Number: SB 531

**Scott D. Shellenberger, State's Attorney for Baltimore County
Support**

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF SENATE BILL 531
CRIMINAL LAW – CUSTODIAL INTERROGATION

I write in support of Senate Bill 531 Juvenile Law-Custodial Interrogation.

Current Law 3-8A-14.2 requires that the police may not conduct a custodial interrogation of a juvenile until the juvenile has consulted with an attorney. This is true even if the parents of the juvenile think it is in the juvenile's best interest to speak to the police.

The admissibility of statements of those in custody has been governed for decades by the Supreme Court ruling in Miranda v Arizona. The rules regarding interrogation have been governed by Case Law. A few years ago Maryland broke with this tradition and passed laws requiring more.

Senate Bill 531 would continue to require Miranda Rights be waived. Senate Bill 531 gives the ultimate decision making of waiving that right to the parents of the juvenile. This would be particularly needed in the case if 4 juveniles committed a crime and only 1 was caught. The parents may want that their child to not be the only one held solely responsible for the crime and may want the other 3 juveniles to share responsibility.

Senate Bill 531 is a common sense piece of Legislation that puts the parents of a juvenile in charge of the juvenile's life.

I urge a favorable report.

SB 531 MYJC_Unfavorable.pdf

Uploaded by: Alice Wilkerson

Position: UNF



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.

SB531_AndrewMiller_JUFJ_UNF.pdf

Uploaded by: Andrew Miller

Position: UNF

February 7, 2025

Andrew J. Miller
Baltimore, MD 21209



TESTIMONY ON SB 531 - POSITION: UNFAVORABLE

Juvenile Justice Restoration Act of 2025

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Andrew Miller, on behalf of Jews United for Justice

My name is Andrew Miller. I am a resident of District 11B, Chair of the Social Justice Advocacy Committee at Chizuk Amuno Congregation in Stevenson, MD, and Chair of the Synagogue Social Justice Roundtable, which has representatives from synagogue communities in Baltimore City, Baltimore County, and Howard County. I am submitting this testimony on behalf of Jews United for Justice (JUFJ). JUFJ organizes 6,000 Jewish Marylanders and allies from across the state in support of social, racial, and economic justice.

Maryland sends more youth ages 14 to 17 to adult court for more different offenses than any state in the U.S. other than Alabama. In our state, police officers have been recorded placing 5-year-olds and 8, 9, and 10-year-olds in handcuffs for acting out in elementary school. We put teenagers as young as 14 into adult prisons, and then to “protect” them from the adult prisoners we place them in solitary confinement for 23 hours a day. Overuse of solitary confinement in Maryland prisons violates international standards against torture. And there are enormous racial disparities in who experiences this treatment. As a Maryland voter I am ashamed of this record, and as legislators I hope you are equally ashamed. As a Jewish voter I am motivated by our sacred texts that call on us to pursue justice. Anything that puts children at greater risk by abridging their constitutional rights is a denial of justice.

In 2022, we and our partners helped pass the Child Interrogation Protection Act (CIPA) and the Juvenile Justice Restoration Act (JJRA), modest but important steps toward protecting the rights of children in Maryland. But the Juvenile Justice Restoration Act of 2025 does not restore justice; instead it seeks to undermine the protection of rights written into the Child Interrogation Protection Act, by allowing law enforcement to interrogate kids without the

presence of a lawyer. Please ask yourselves whether you would want law enforcement officers to be able to interrogate your own child without the benefit of a lawyer.

We know that children are more vulnerable than adults when it comes to the kind of pressure that might occur during an interrogation. They may not understand their own constitutional rights in the same way as adults, and may be manipulated into yielding those rights. The existing law requires children to be remanded to the custody of their parents and to have access to an attorney before they are interrogated. It remedies a serious problem in the administration of criminal justice. Taking away those protections would be a miscarriage of justice, and harm our kids.

For these reasons, I respectfully urge this committee to issue an unfavorable report on SB 531 and stand behind the important progress the legislature made by passing the Child Interrogation Protection Act in 2022.

2025 7 2 _ SB 0531 Juvenile Law - Custodial Interr

Uploaded by: Evelyn Walker

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 0531 Juvenile Law - Custodial Interrogation (Juvenile Justice Restoration Act of 2025)

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 7, 2025

The Maryland Office of the Public Defender strongly urges the Committee to issue an unfavorable report on Senate Bill 531.

In 2022, Maryland passed the Child Interrogation Protection Act (“CIPA”) to protect the fundamental rights to remain silent and to have a lawyer guaranteed to all people, including children. CIPA was a vital measure to ensure that these constitutional rights are meaningfully protected for children, in light of their unique vulnerabilities to make a coerced statement and their developmental limitations that may preclude their ability to invoke their rights without legal guidance.

Studies show that children are two to three times more likely to falsely confess than adults.¹ Youth and their parents rarely realize law enforcement can lie to them. For example, police are permitted to tell someone that they have scientific evidence or witness statements that do not exist.² Promises of leniency and minimization of legal exposure are common police interrogation techniques that further elevate the false confession rate to 43%.³ Maryland enacted the Child Interrogation Protection Act and included the legal consultation provisions in light of this historical backdrop.

¹ See, e.g., Amanda Ghibaudo, Vulnerability of Juveniles to False Confessions (2023), https://digital.sandiego.edu/cgi/viewcontent.cgi?article=1111&context=honors_theses#:~:text=During%20a%20interrogation%2C%20juveniles%20are,et%20al.%2C%202016; Steven A. Drizin & Richard A. Leo, The Problem of False Confessions in the Post-DNA World, 82 N.C. L. Rev. 891 (2004), <https://scholarship.law.unc.edu/nclr/vol82/iss3/3>.

² *Whittington V. State*, 147 Md.App. 496 (2002).

³ Mass General Brigham and Harvard Medical School, White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys, and Policy Makers (2022), <https://clbb.mgh.harvard.edu/white-paper-on-the-science-of-late-adolescence/>.

As the law currently stands, a parent has the right to be notified of their child's custodial status. This right belonging to the parent is distinct from the child's right to consult with counsel created by CIPA prior to a custodial interrogation. This is an important distinction. Parents do not have the expertise to understand the legal jeopardy that their children are in, the rights that their child may need to invoke, or what is needed to ensure that those rights are protected.

Senate Bill 531 seeks to authorize a parent guardian or custodian to consent to the interrogation of the child. However, constitutional rights can only be waived by the person who holds the right – in this case, the child – and requires that the waiver be made knowingly and voluntarily. Allowing a parent to provide this waiver will result in litigation ultimately precluding the use of any resulting statements and the fruits of such statements.

Likewise, a parent's encouragement that their child waive their rights does not ensure that the child understands the consequences of doing so, and will similarly be inadmissible in any subsequent prosecution for failing to meet the knowing and voluntary standard. This is particularly true as most adults misunderstand their legal rights and protections within a criminal setting, especially involving custodial interrogations, which means many parents lack the necessary information in order to adequately assist their children prior to a custodial interrogation. Evidence suggests that the presence of a parent does not impact a juvenile's assertion of their rights nor mitigates the coercive circumstances inherent in police interrogations.⁴

Treating a parent, guardian, or custodian as an adult proxy for the client also creates conflicts of interest that are particularly problematic for waiving constitutional rights. Children interrogated by law enforcement are often wards of the State, in DSS or DJS custody. This law would thus allow the State to waive the rights of those children, despite its clear conflict as the prosecuting entity. In other circumstances, parents and guardians are often the complaining witnesses, creating a similar conflict of interest when it comes to advising children of their rights. Other bills under consideration by the General Assembly that would allow for parents to be prosecuted for failing to prevent their child's delinquent acts would create further conflicts of interest if passed, as a parent may be more prone to encourage their child to speak to the police as a means to distinguish themselves from having any involvement in the child's behaviors.

⁴ Naomi E. S. Goldstein, Emily Haney-Caron, Marsha Levick & Danielle Whiteman, Waving Goodbye to Waiver: A Developmental Argument Against Youth's Waiver of Miranda Rights, 21 LEG. & PUB. 1, 52 (2018) (citing Thomas Grisso & Carolyn Pomictor, *Interrogation of Juveniles: An Empirical Study of Procedures, Safeguards, and Rights Waiver*, 1 LAW & HUM. BEHAV. 321, 340 (1997)).

While allowing for parents, guardians and custodians to waive their child's rights or to serve as the legal advisor for a child will create constitutional barriers for prosecutions seeking to rely on these interrogations, the purported safety concerns with the existing practice under CIPA are non-existent. The police can already question a child without advisement in exigent circumstances where community safety is at risk. Police also have a full range of investigatory tools available that do not involve encouraging a child to surrender their rights in hopes of eliciting a statement that may be coerced or otherwise inaccurate.

Every child has the right to understand their legal rights and protections and what it means to abandon their rights. Parents lack the legal expertise needed to replace legal counsel for a child. Beyond their expertise in criminal and juvenile law, attorneys with the Office of the Public Defender are trained about adolescent brain development, speaking to young clients, and identifying key differences between children and adults for advisements. To ensure that any waiver of these rights complies with the constitutional standard of being knowingly, intelligently, and voluntarily made, CIPA must remain as written.

Therefore the Maryland Office of the Public Defender strongly urges the Committee to issue an unfavorable report on Senate Bill 531.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Evelyn Walker Assistant Public Defender, evelyn.walker@maryland.gov.

SB 531 - Custodial Interrogation - ACLU Testimony

Uploaded by: Frank Patinella

Position: UNF



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.¹ 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

¹ 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.² 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.³ In one study, a significant number of adults demonstrated numerous misconceptions about their Miranda rights.⁴ 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.

² 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

³ 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.>

⁴ 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.>

Unfavorable - SB 531 - Joanna Silver for SSJC.pdf

Uploaded by: Joanna Silver

Position: UNF



TESTIMONY IN OPPOSITION TO SB 531
Senate Judicial Proceedings Committee, February 7, 2025

My name is Joanna Silver. I am a resident of Silver Spring, in District 18. I am testifying on behalf of the Silver Spring Justice Coalition in Opposition to SB 531. The Silver Spring Justice Coalition is an organization of community members, faith groups, and civil and human rights organizations from throughout Montgomery County that works to reduce the presence of police in our communities; eliminate violence and harm by police; establish transparency and accountability; and redirect public funds toward community needs.

SSJC testified in favor of the Child Interrogation Protection Act (CIPA) two years ago and was heartened by its passage. Prior to the law change, no consideration was given to the fact that children's ability to grasp the complicated and intimidating concepts that arise during a custodial interrogation is significantly diminished by their age.

SB 120 weakens CIPA by permitting a parent to waive the law's requirement that an attorney be consulted when a child is first interrogated by law enforcement. SSJC sees no need to remove this protection. While we know parents act in their children's best interests, they cannot replace an attorney in providing the type of advice that is needed to ensure that a child understands the rights they are being asked to waive. The ability of a parent to waive an attorney consultation will most negatively impact our most vulnerable communities, specifically, people of color, immigrant communities, the undereducated, those persons in poverty, and people with mental health issues, communities that have historically been marginalized and overpoliced. These are exactly the communities where a parent may be more susceptible to threats, intimidation, coercion, or fear and may be more reluctant to assert their children's rights.

Studies show that children waive their Miranda rights at a rate of 90 percent and make false confessions at a higher rate than adults. One study found that children are three times more likely to falsely confess than adults. In fact, leading law enforcement organizations, such as the International Association of

Chiefs of Police, also agree that children are particularly likely to give false confessions during the pressure-cooker of police interrogation.¹

To be clear, CIPA does not prevent police from speaking to children in emergency situations. Police may seek out information necessary to protect against a threat to public safety. Further, CIPA does not mandate that children remain silent during interrogations. Once a child has consulted with an attorney, they can make the decision to exercise their right to remain silent or to speak to police as any adult would. Existing law simply attempts to ensure children understand these rights before proceeding with an interrogation.

It is unfortunate that in recent months, law enforcement, prosecutors, and certain media outlets have mischaracterized the state of youth crime in Maryland. Public narrative, often agenda driven and sensationalist, should not drive policy, particularly regarding a law that is still so new, and for which we do not yet have sufficient data as to its salutary or deleterious effects. The attempt to weaken CIPA protections goes against the will of the legislature and the Maryland public.

For these reasons we respectfully urge you to issue an unfavorable report.

¹ <https://www.law.northwestern.edu/legalclinic/wrongfulconvictionsyouth/understandproblem/>

SB531. onBMI Letterhead.pdf

Uploaded by: Marlon Tilghman

Position: UNF



VISION - BRIDGE Maryland sees the state challenged by a history of inequity but engaged in community organizing for a more just tomorrow.

MISSION - BRIDGE Maryland uses intentional relationship building, organizing, and intensive leadership development in order to strengthen congregations and faith leaders to demonstrate and advance justice in the world.

Senate Bill SB531
Chairman, Will Smith
Judicial Proceedings Committee
February 7, 2005, 1:00 PM
BRIDGE Maryland, Inc

Dear Chairman Will Smith and members of the committee,

On behalf of BRIDGE Maryland, Inc., a statewide interfaith organization, we do not support SB531 for the following reasons here listed. Are we trying to subvert the Fifth Amendment rights of children now because that is how this bill is written. Some of the parents and guardians that would be included in this bill also fall in the category of brain development concerns we articulated to pass the Child Interrogation Protection Act (CIPA). Likewise, C.I.P.A. works in the best interest of the child and that's what laws should do, protect the vulnerable.

The Child Interrogation Protection Law is designed to explain to a child in legal terms, at their age level, what it means to speak to law enforcement and states attorneys. Are we saying that parents are lawyers now? I personally have three degrees that include a doctorate, and some legal terms still baffled me. This bill is simply an attempt to dismantle a child's Constitutional 5th Amendment right! Please do not let the false bravado that parents and guardians know the best for their children in one of the most important decisions they will make for their future. We urge you to vote unfavorable to SB531.

Sincerely

Rev. Dr. Marlon Tilghman
Bridge Maryland Executive Board Member at Large

YEJ Clinic SB 531 Unfavorable.pdf

Uploaded by: Mya Jeter

Position: UNF

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

From: Mya Jeter, Student Attorney, Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law, 500 W. Baltimore Street, Baltimore, MD 21201 (admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar)

Date: February 7, 2025

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.

OPPOSE SB 531 - Juvenile Restoration Act.docx.pdf

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Position: UNF

OPPOSE SB 531 – Juvenile Restoration Act



TO: Chair Will Smith and Judiciary Com.
FROM: Phil Caroom, MAJR Executive Committee
DATE: February 7, 2025

Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) opposes SB 531 which seeks to re-write the Juvenile Restoration Act to permit parents to cancel their children's right to counsel. When the Child Interrogation Protection Act was passed by the Maryland General Assembly, this same compromise was considered and rejected. It should be rejected again. Here is why:

Primarily, it should be recognized that the constitutional right to counsel belongs to the juvenile facing delinquency or criminal charges; the right does not belong to the juvenile's parent. Compare, e.g., In re Blessen H., 163 Md. App. 1, 13, 877 A.2d 161, 168 (2005), aff'd, 392 Md. 684, 898 A.2d 980 (2006) and In re Christopher T., 129 Md.App. 28 (1999).

This is particularly important because parents may have a conflict of interest on the question of a juvenile's waiver of the right to counsel. (Compare Nagel v. Hooks, 296 Md. 123 (1983), denying parents the right to waive a child's right of confidentiality as to communications with a psychologist in a child custody case.)

In a delinquency or criminal matter, parents often are the complaining witnesses against their own children; for example, many children are victims of a parent's abuse when accused of assault by a parent.

The question of waiver as to a juvenile's right to counsel is one which, under Maryland case law and current statute, should be determined by a judge who has the opportunity to consider all the circumstances. It should not be assigned freely to parents or to police in the name of efficiency.

For these reasons, MAJR urges an unfavorable report on SB 531.

PLEASE NOTE: Phil Caroom offers this testimony for Md. Alliance for Justice Reform and not for the Md. Judiciary or any other unit of state government.

Testimony opposing SB0531 - Juvenile Law - Custodi

Uploaded by: Richard KAP Kaplowitz

Position: UNF

SB0531_RichardKaplowitz_UNF

02/07/2025

Richard Keith Kaplowitz
Frederick, MD 21703-7134

TESTIMONY ON SB#0531 - POSITION: UNFAVORABLE
Juvenile Law - Custodial Interrogation (Juvenile Justice Restoration Act of 2025)

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee
FROM: Richard Keith Kaplowitz

My name is Richard Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony opposing SB#/0531, Juvenile Law - Custodial Interrogation (Juvenile Justice Restoration Act of 2025)

This bill seems to make 2 assumptions in its application that are false. The first is that a minor does not have the same rights as an adult in requesting an attorney in every case in which they might be questioned by a law enforcement officer. Their Miranda Rights tell them they have the right to an attorney or that one may be appointed for them. They may be unaware of why they would want to have that attorney present at their questioning. The bill then assumes that a parent or guardian who has the same lack of knowledge of the legal system and has not been read of the right of counsel is competent to give permission for the minor's questioning without that counsel present. This bill denies minors that right of counsel simply because an adult, with no knowledge of the law, said it is ok to question the child.

This bill alters a certain provision of law authorizing a law enforcement officer to conduct an otherwise lawful custodial interrogation of a child if the child's parent, guardian, or custodian consents to the custodial interrogation of the child without the child's consultation with an attorney. It does nothing to protect that minor from an inadvertent loss of legal rights due to their participation in questioning after permission to do so is granted. It will further the mistrust of our law enforcement by our youth when they learn that youth legal rights are not guarded or guaranteed as much as an adult in a similar circumstance.

I respectfully urge this committee to return an unfavorable report on SB0531.