

## MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



To: Chair Delegate Luke Clippinger and Judiciary Committee members  
From: Jenny Zito, MAJR executive committee

Feb. 2, 2022

Maryland Alliance for Justice Reform (MAJR - [www.ma4jr.org](http://www.ma4jr.org)) strongly supports “The Juvenile Interrogation Protection Act” (HB 0269 / SB 0053).

The Sixth Amendment states that in “all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defense.” In 1967’s “In re Gault,” the U.S. Supreme Court recognized that due process rights for juveniles should include the opportunity to consult with legal counsel because juveniles are particularly vulnerable. Absent adult advice, juveniles rarely understand the potentially life-long consequences of a criminal record. For example, certain delinquency adjudications may result in deportation, barriers to employment, or removal from school or public housing [Henning].

Unfortunately, youth and inexperience make it much more likely for juveniles to agree to waive their right to counsel, especially in the context of interrogation. Juveniles are more vulnerable to interrogative pressure than adults [Richardson et al.]. It is much more common for juveniles to accept responsibility for an act they did not do than adults [RedlichGoodman]. A 2005 study of 340 exonerated individuals found that juvenile exonerees were three times as likely as adults to have given false confessions [Gross et al.].

Current Maryland statutes and precedents provide that reasonable efforts should be made to notify a parent of the child's arrest and that the child should be Mirandized, but do not provide a bright-line rule against non-emergency interrogations without an attorney's advice [McIntyre v. State]. HB 269/SB 53 also makes state policy more clear by creating a rebuttable presumption against admission of statements taken in violation of the law.

This bill is supported by Baltimore City State's Attorney Marilyn Mosby and Prince George's County State's Attorney Aisha Braveboy [Weill-Greenberg]. California has passed a bill that requires people under 18 must be allowed to speak with an attorney before an interrogation can commence. Both New York and Washington state have similar bills that are under consideration by their legislatures this year.

Suggested Amendment: MAJR supports this bill in its original form, but asks the committee to consider an amendment that would forbid police officers from deliberately deceiving juveniles. Interrogation procedures in most states allow the interrogators to lie to suspects, and this practice can include false statements that someone else has implicated the suspect or that there was DNA evidence at the crime scene. The practice of deception has been shown to be a frequent contributing factor to the false confessions of juveniles that have later been exonerated because of DNA evidence or the confession of the actual perpetrator. A recent example in New York state was the false confessions of the juveniles in the “central park five” under deceptive interrogation practices. Illinois, and Oregon have enacted laws prohibiting police from using deceptive interrogation tactics on minors. Illinois, Nebraska, New York, and the U.S. Congress are considering similar bills either for juvenile interrogations or for all interrogations. Links to Oregon and Illinois bills can be found at <https://ma4jr/Juvenile-Interrogation>.

References:

- Gross SR, Jacoby K, Matheson DJ, Montgomery N. Exonerations in the United States 1989 through 2003. *J. Crim. L. & CrimiNology*. 2004;95:523.
- Henning K. Eroding confidentiality in delinquency proceedings: Should schools and public housing authorities be notified. *New York University Law Review*, 79, 520 – 611 (2004).
- McIntyre v. State, 309 Md. 607, 526 A.2d 30 (1987).
- Redlich AD, Goodman GS. Taking responsibility for an act not committed: The influence of age and suggestibility. *Law and human behavior*. 2003 Apr;27(2):141-56.
- Richardson G, Gudjonsson GH, Kelly TP. Interrogative suggestibility in an adolescent forensic population. *Journal of Adolescence*. 1995 Apr 1;18(2):211-6.
- Weill-Greenberg E. Children can be on their own when grilled by police, *The Appeal* (2021).
- Woolard J. Waiver of Counsel in Juvenile Court, *Office of Justice Programs' National Criminal Justice Reference Service* (2019).
- Illinois SB2122
- Oregon 2021 SB418

*PLEASE NOTE:* An expanded version of the content of this testimony is available at <https://www.ma4jr.org/juvenile-interrogation> with hyperlinks to all references.