

Defend Against Attempts to Repeal the Child Interrogation Protection Act

In 2022, the Maryland General Assembly passed the *Child Interrogation Protection Act* (CIPA). Prior to the law change, children were treated no differently than adults during custodial interrogations, with no consideration for the fact that children's ability to grasp these complicated and intimidating concepts is significantly diminished by their age.

The Supreme Court has routinely held that children are different than adults and should be treated as such in their interactions with the justice system.¹ With this consideration in mind, lawmakers passed CIPA. It received broad support from the legislature.

However, over recent months, law enforcement, prosecutors, and certain media outlets have mischaracterized the state of youth crime in Maryland and have called for the rollback of CIPA. During the 2024 legislative session, we will continue to defend children from attacks on their rights and due process.

WHAT IS CIPA?

The *Child Interrogation Protection Act* (CIPA) ensures that children are provided with an age and development appropriate explanation of their Miranda rights by requiring an attorney be consulted when a child is first interrogated by law enforcement. The law also ensures that parents/guardians are notified when the child is taken into custody.

WHY IS CIPA NEEDED?

Studies show that children waive their Miranda rights at a rate of 90 percent and make false confessions at a higher rate than adults.² One study found that children are three times more likely to falsely confess than adults.³

According to a data review from the National Registry of Exonerations, of the



268 exonerees who were wrongly convicted as children, 34 percent falsely confessed, whereas 10 percent of exonerees who were wrongly convicted above the age of 18 falsely confessed.⁴ In addition to differences in brain development between adults and children, this is largely due to the fear and confusion that children face during encounters with police. Police understand this fear and are allowed to lie to children, urging them to confess even if they did not commit the crime.

Furthermore, false confessions not only harm the child but also undermine the police's ability to apprehend the right person.

Police have a variety of investigative techniques that they can utilize that do not center on self-incrimination. CIPA balances law enforcement agency's need to solve crimes with the need to ensure that those being accused of a crime understand their rights and can exercise them. Attempts to frame those goals as mutually exclusive undermine our constitutional rights.

Some have suggested that parents, not children, should be the ones to decide whether or not the child speaks to police. However, constitutional rights are not transferable, and parents cannot force children to give up these rights.

SOURCES

¹ https://www.sog.unc.edu/sites/default/files/course_materials/US%20Supreme%20Court%20cases%20on%20how%20children%20are%20different.pdf

² https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/august-2016/police-routinely-read-juveniles-their-miranda-rights--but-do-kid/

³ <https://www.law.northwestern.edu/legalclinic/wrongfulconvictionsyouth/understandproblem/>; https://www.prisonpolicy.org/scans/aba/Juvenile_confessions.pdf

⁴ <https://innocenceproject.org/police-deception-lying-interrogations-youth-teenagers/>

WHAT CIPA IS NOT

- **CIPA does not create additional constitutional rights for children.** The right to remain silent and the right to consult with an attorney are guaranteed to all people by the constitution and have been affirmed by the Supreme Court on many occasions. In order to protect these existing rights, CIPA established additional procedures with the goal of ensuring children actually understand their rights when in police custody. No state can infringe on the rights of people under the constitution. However, states can expand such protections. CIPA introduced procedural expansions that ensure existing rights are protected for our state's most vulnerable.
- **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.
- **CIPA does not limit attorney choice.** Children must consult with an attorney to be advised of their rights before police proceed with an interrogation. This attorney can be a private attorney or one provided through the Office of the Public Defender.
- **CIPA does not mandate that children remain silent during interrogations.** Once a child has consulted with an attorney and their parents have been called, they can make the decision to exercise their right to remain silent or to speak to police as any adult would. The bill simply outlines additional steps necessary to ensure children understand these rights before proceeding with an interrogation.