

HOUSE BILL 1116

E3, E2

1lr2818

By: **Delegate Wilson**

Introduced and read first time: February 5, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Child Custodial Interrogation – Rights**

3 FOR the purpose of requiring that a child in custody be advised of certain rights before
4 questioning; prohibiting any admission or confession resulting from the questioning
5 of a child from being admitted into evidence except under certain circumstances;
6 requiring that the parent, guardian, or custodian of a certain child be advised of the
7 child's rights in certain circumstances; providing that a parent, guardian, or
8 custodian may not waive certain rights on behalf of a child; requiring that an officer
9 cease the questioning of a certain child under certain circumstances; requiring a
10 court to make a certain finding before admitting certain evidence; requiring that the
11 custodial interrogation of a minor be conducted in a certain manner; and generally
12 relating to the custodial interrogation of a child.

13 BY repealing and reenacting, without amendments,
14 Article – Courts and Judicial Proceedings
15 Section 3–8A–14
16 Annotated Code of Maryland
17 (2020 Replacement Volume)

18 BY adding to
19 Article – Courts and Judicial Proceedings
20 Section 3–8A–14.2
21 Annotated Code of Maryland
22 (2020 Replacement Volume)

23 BY adding to
24 Article – Criminal Procedure
25 Section 2–405
26 Annotated Code of Maryland
27 (2018 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

3–8A–14.

(a) A child may be taken into custody under this subtitle by any of the following methods:

(1) Pursuant to an order of the court;

(2) By a law enforcement officer pursuant to the law of arrest;

(3) By a law enforcement officer or other person authorized by the court if the officer or other person has reasonable grounds to believe that the child is in immediate danger from the child's surroundings and that the child's removal is necessary for the child's protection;

(4) By a law enforcement officer or other person authorized by the court if the officer or other person has reasonable grounds to believe that the child has run away from the child's parents, guardian, or legal custodian; or

(5) In accordance with § 3–8A–14.1 of this subtitle.

(b) If a law enforcement officer takes a child into custody, the officer shall immediately notify, or cause to be notified, the child's parents, guardian, or custodian of the action. After making every reasonable effort to give notice, the law enforcement officer shall with all reasonable speed:

(1) Release the child to the child's parents, guardian, or custodian or to any other person designated by the court, upon their written promise to bring the child before the court when requested by the court, and such security for the child's appearance as the court may reasonably require, unless the child's placement in detention or shelter care is permitted and appears required by § 3–8A–15 of this subtitle; or

(2) Deliver the child to the court or a place of detention or shelter care designated by the court.

(c) If a parent, guardian, or custodian fails to bring the child before the court when requested, the court may issue a writ of attachment directing that the child be taken into custody and brought before the court. The court may proceed against the parent, guardian, or custodian for contempt.

(d) In addition to the requirements for reporting child abuse and neglect under § 5–704 of the Family Law Article, if a law enforcement officer has reason to believe that a child who has been detained is a victim of sex trafficking, as defined in § 5–701 of the Family

Law Article, the law enforcement officer shall notify any appropriate regional navigator, as defined in § 5–704.4 of the Family Law Article, for the jurisdiction where the child was taken into custody or where the child is a resident that the child is a suspected victim of sex trafficking.

3–8A–14.2.

(A) A CHILD IN CUSTODY SHALL BE ADVISED BEFORE QUESTIONING:

(1) THAT THE CHILD HAS A RIGHT TO REMAIN SILENT;

(2) THAT ANY STATEMENT THE CHILD DOES MAKE CAN BE AND MAY BE USED AGAINST THE CHILD;

(3) THAT THE CHILD HAS A RIGHT TO HAVE A PARENT, GUARDIAN, OR CUSTODIAN PRESENT DURING QUESTIONING; AND

(4) THAT THE CHILD HAS A RIGHT TO CONSULT WITH AN ATTORNEY AND THAT ONE WILL BE APPOINTED FOR THE CHILD IF THE CHILD IS NOT REPRESENTED AND WANTS REPRESENTATION.

(B) (1) ANY ADMISSION OR CONFESSION MADE BY A CHILD IN CUSTODY RESULTING FROM QUESTIONING MAY NOT BE ADMITTED INTO EVIDENCE UNLESS THE CONFESSION OR ADMISSION WAS MADE IN THE PRESENCE OF THE CHILD’S PARENT, GUARDIAN, CUSTODIAN, OR ATTORNEY.

(2) (I) IF AN ATTORNEY IS NOT PRESENT, THE PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD SHALL BE ADVISED OF THE CHILD’S RIGHTS UNDER SUBSECTION (A) OF THIS SECTION.

(II) A PARENT, GUARDIAN, OR CUSTODIAN MAY NOT WAIVE ANY RIGHT ON BEHALF OF THE CHILD.

(C) IF THE CHILD INDICATES IN ANY MANNER AND AT ANY STAGE OF QUESTIONING IN ACCORDANCE WITH THIS SECTION THAT THE CHILD DOES NOT WISH TO BE QUESTIONED FURTHER, THE OFFICER SHALL CEASE QUESTIONING.

(D) BEFORE ADMITTING INTO EVIDENCE ANY STATEMENT RESULTING FROM A CUSTODIAL INTERROGATION, THE COURT SHALL FIND THAT THE CHILD:

(1) UNDERSTOOD THE CHILD’S RIGHTS; AND

(2) KNOWINGLY AND WILLINGLY WAIVED THE CHILD’S RIGHTS.

Article – Criminal Procedure**2-405.**

**A CUSTODIAL INTERROGATION OF A MINOR SHALL BE CONDUCTED IN
ACCORDANCE WITH THE REQUIREMENTS OF § 3-8A-14.2 OF THE COURTS ARTICLE.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2021.**