

SENATE BILL 136

E3

(PRE-FILED)

11r0473
CF HB 315

By: **Senator Carter**

Requested: September 8, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Juvenile Interrogation Protection Act**

3 FOR the purpose of requiring a law enforcement officer who takes a child into custody to
4 provide notice to the child's parents, guardian, or custodian in a certain manner;
5 specifying the required contents of a certain notice; prohibiting the custodial
6 interrogation of a child by a law enforcement officer until the child has consulted
7 with a certain attorney and certain notice has been provided to the child's parent,
8 guardian, or custodian; requiring that a consultation between a child and an attorney
9 under this Act be confidential; authorizing a consultation between a child and an
10 attorney under this Act to occur in person or by certain electronic methods; providing
11 certain guidelines for an attorney providing legal consultation to a child under this
12 Act; providing that the required consultation under this Act may not be waived and
13 applies regardless of whether the child is proceeded against as a child under certain
14 provisions of law or is charged as an adult; requiring a law enforcement agency to
15 maintain a certain record; providing that statements made by a child are admissible
16 as evidence under certain circumstances; requiring the Police Training and
17 Standards Commission to adopt certain rules relating to the advisement of a child of
18 certain rights; requiring a law enforcement officer who charges a minor with a
19 criminal offense to make a reasonable attempt to provide actual notice to the parent
20 or guardian of the minor; requiring that the custodial interrogation of a minor be
21 conducted in a certain manner; making a conforming change; defining certain terms;
22 and generally relating to juvenile law and the interrogation of children by law
23 enforcement.

24 BY repealing and reenacting, with amendments,
25 Article – Courts and Judicial Proceedings
26 Section 3–8A–14
27 Annotated Code of Maryland
28 (2020 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to

Article – Courts and Judicial Proceedings

Section 3–8A–14.2

Annotated Code of Maryland

(2020 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 2–108

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Criminal Procedure

Section 2–405

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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) **(1) (I)** 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 **IN A MANNER REASONABLY CALCULATED TO GIVE ACTUAL NOTICE** of the action.

(II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

- 1. INCLUDE THE CHILD’S LOCATION;**
- 2. PROVIDE THE REASON FOR THE CHILD BEING TAKEN INTO CUSTODY; AND**
- 3. INSTRUCT THE PARENT, GUARDIAN, OR CUSTODIAN ON HOW TO MAKE IMMEDIATE IN-PERSON CONTACT WITH THE CHILD.**

(2) After making every reasonable effort to give **ACTUAL** notice **TO A CHILD’S PARENT, GUARDIAN, OR CUSTODIAN**, the law enforcement officer shall with all reasonable speed:

[(1)] (I) 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)] (II) 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]**:

(1) ISSUE a writ of attachment directing that the child be taken into custody and brought before the court~~[. The court may proceed]~~; **AND**

(2) 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.

(E) THE POLICE TRAINING AND STANDARDS COMMISSION SHALL ADOPT RULES CONCERNING AGE–APPROPRIATE LANGUAGE TO BE USED TO ADVISE A CHILD WHO IS TAKEN INTO CUSTODY OF:

(1) THE CHILD’S RIGHTS, INCLUDING:

(I) THE RIGHT TO REMAIN SILENT; AND

(II) THE RIGHT TO BE REPRESENTED BY AN ATTORNEY; AND

(2) THE REQUIREMENT THAT THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN BE NOTIFIED:

(I) THAT THE CHILD WAS TAKEN INTO CUSTODY UNDER THIS SECTION; OR

(II) BEFORE AN INTERROGATION IS CONDUCTED UNDER § 3-8A-14.2 OF THIS SUBTITLE.

3-8A-14.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CUSTODIAL INTERROGATION" RETAINS ITS JUDICIALLY DETERMINED MEANING.

(3) (I) "LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE.

(II) "LAW ENFORCEMENT OFFICER" INCLUDES A SCHOOL RESOURCE OFFICER, AS DEFINED IN § 7-1501 OF THE EDUCATION ARTICLE.

(B) A LAW ENFORCEMENT OFFICER MAY NOT CONDUCT A CUSTODIAL INTERROGATION OF A CHILD UNTIL:

(1) THE CHILD HAS CONSULTED WITH AN ATTORNEY WHO IS:

(I) RETAINED BY THE PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD; OR

(II) PROVIDED BY THE OFFICE OF THE PUBLIC DEFENDER; AND

(2) THE LAW ENFORCEMENT OFFICER HAS NOTIFIED, OR CAUSED TO BE NOTIFIED, THE PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD IN A MANNER REASONABLY CALCULATED TO PROVIDE ACTUAL NOTICE THAT THE CHILD WILL BE INTERROGATED.

(C) A CONSULTATION WITH AN ATTORNEY UNDER THIS SECTION:

(1) SHALL BE CONFIDENTIAL; AND

(2) MAY BE:

(I) IN PERSON; OR

(II) BY TELEPHONE OR VIDEO CONFERENCE.

(D) TO THE EXTENT PRACTICABLE AND CONSISTENT WITH THE MARYLAND RULES OF PROFESSIONAL CONDUCT, AN ATTORNEY PROVIDING CONSULTATION UNDER THIS SECTION SHALL COMMUNICATE AND COORDINATE WITH THE PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD IN CUSTODY.

(E) THE REQUIREMENT OF CONSULTATION WITH AN ATTORNEY UNDER THIS SECTION:

(1) MAY NOT BE WAIVED; AND

(2) APPLIES REGARDLESS OF WHETHER THE CHILD IS PROCEEDED AGAINST AS A CHILD UNDER THIS SUBTITLE OR IS CHARGED AS AN ADULT.

(F) A LAW ENFORCEMENT AGENCY CONDUCTING AN INTERROGATION UNDER THIS SECTION SHALL MAINTAIN A RECORD OF THE NOTIFICATION OR ATTEMPTED NOTIFICATION OF A PARENT, GUARDIAN, OR CUSTODIAN UNDER THIS SECTION, INCLUDING:

(1) A SIGNED STATEMENT BY A DULY AUTHORIZED LAW ENFORCEMENT OFFICER EMPLOYED BY THE AGENCY THAT AN ATTEMPT TO NOTIFY A PARENT, GUARDIAN, OR CUSTODIAN WAS MADE;

(2) THE NAME OF THE PERSON SOUGHT TO BE NOTIFIED; AND

(3) THE METHOD OF ATTEMPTED NOTIFICATION.

(G) NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION, STATEMENTS MADE BY A CHILD ARE ADMISSIBLE AS EVIDENCE IF:

(1) THE LAW ENFORCEMENT OFFICER WHO CONDUCTED THE CUSTODIAL INTERROGATION OF THE CHILD REASONABLY BELIEVED THAT THE INFORMATION SOUGHT WAS NECESSARY TO PROTECT AN INDIVIDUAL FROM AN IMMINENT THREAT TO THE LIFE OF THE INDIVIDUAL; AND

1 **(2) THE QUESTIONS POSED TO THE CHILD BY THE LAW**
2 **ENFORCEMENT OFFICER WERE LIMITED TO THOSE QUESTIONS REASONABLY**
3 **NECESSARY TO OBTAIN THE INFORMATION.**

4 **Article – Criminal Procedure**

5 2–108.

6 (a) A law enforcement officer who charges a minor with a criminal offense shall
7 make a reasonable attempt to [notify] **PROVIDE ACTUAL NOTICE TO** the parent or
8 guardian of the minor of the charge.

9 (b) If a law enforcement officer takes a minor into custody, the law enforcement
10 officer or the officer’s designee shall make a reasonable attempt to notify the parent or
11 guardian of the minor [within 48 hours of the arrest of the minor] **IN ACCORDANCE WITH**
12 **THE REQUIREMENTS OF § 3–8A–14 OF THE COURTS ARTICLE.**

13 **2–405.**

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

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