

# SENATE BILL 593

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CF HB 624

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By: **Senators Carter, Benson, Lam, Lee, McCray, Patterson, Smith, Sydnor, and Washington**

Introduced and read first time: January 31, 2020

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Child 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 a statement or evidence acquired as a  
16 result of a violation of this Act is inadmissible as evidence in any legal action  
17 involving the child; requiring the Court of Appeals to adopt certain rules relating to  
18 the advisement of a child of certain rights; requiring a law enforcement officer who  
19 charges a minor with a criminal offense to make a reasonable attempt to provide  
20 actual notice to the parent or guardian of the minor; requiring that the custodial  
21 interrogation of a minor be conducted in a certain manner; making a conforming  
22 change; defining certain terms; and generally relating to juvenile law and the  
23 interrogation of children by law 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 (2013 Replacement Volume and 2019 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Courts and Judicial Proceedings  
3 Section 3–8A–14.2  
4 Annotated Code of Maryland  
5 (2013 Replacement Volume and 2019 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Criminal Procedure  
8 Section 2–108  
9 Annotated Code of Maryland  
10 (2018 Replacement Volume and 2019 Supplement)

11 BY adding to  
12 Article – Criminal Procedure  
13 Section 2–405  
14 Annotated Code of Maryland  
15 (2018 Replacement Volume and 2019 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 3–8A–14.

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

22 (1) Pursuant to an order of the court;

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

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

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

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

32 (b) **(1) (I)** If a law enforcement officer takes a child into custody, the officer  
33 shall immediately notify, or cause to be notified, the child’s parents, guardian, or custodian  
34 **IN A MANNER REASONABLY CALCULATED TO GIVE ACTUAL NOTICE** of the action.

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

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

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

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

16                   **[(2)] (II)** Deliver the child to the court or a place of detention or shelter  
17 care designated by the court.

18                   (c) If a parent, guardian, or custodian fails to bring the child before the court  
19 when requested, the court may **[issue]**:

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

22                   **(2) PROCEED** against the parent, guardian, or custodian for contempt.

23                   (d) In addition to the requirements for reporting child abuse and neglect under §  
24 5–704 of the Family Law Article, if a law enforcement officer has reason to believe that a  
25 child who has been detained is a victim of sex trafficking, as defined in § 5–701 of the Family  
26 Law Article, the law enforcement officer shall notify any appropriate regional navigator, as  
27 defined in § 5–704.4 of the Family Law Article, for the jurisdiction where the child was  
28 taken into custody or where the child is a resident that the child is a suspected victim of  
29 sex trafficking.

30                   **(E) THE COURT OF APPEALS SHALL ADOPT RULES CONCERNING**  
31 **AGE-APPROPRIATE LANGUAGE TO BE USED TO ADVISE A CHILD WHO IS TAKEN INTO**  
32 **CUSTODY OF:**

33                   **(1) THE CHILD’S RIGHTS, INCLUDING:**

1 (I) THE RIGHT TO REMAIN SILENT; AND

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

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

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

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

9 3-8A-14.2.

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

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

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

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

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

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

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

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

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

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

2 (1) SHALL BE CONFIDENTIAL; AND

3 (2) MAY BE:

4 (I) IN PERSON; OR

5 (II) BY TELEPHONE OR VIDEO CONFERENCE.

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

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

12 (1) MAY NOT BE WAIVED; AND

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

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

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

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

23 (3) THE METHOD OF ATTEMPTED NOTIFICATION.

24 (G) A STATEMENT OR EVIDENCE OBTAINED AS A RESULT OF A VIOLATION  
25 OF THIS SECTION IS INADMISSIBLE AS EVIDENCE IN ANY LEGAL ACTION INVOLVING  
26 THE CHILD.

27 Article – Criminal Procedure

28 2–108.

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

4 (b) If a law enforcement officer takes a minor into custody, the law enforcement  
5 officer or the officer's designee shall make a reasonable attempt to notify the parent or  
6 guardian of the minor [within 48 hours of the arrest of the minor] **IN ACCORDANCE WITH**  
7 **THE REQUIREMENTS OF § 3-8A-14 OF THE COURTS ARTICLE.**

8 **2-405.**

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

11 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect  
12 **October 1, 2020.**