

Agreed bill – lawyer for children during interrogation

- Raises the age from 13 to 15 for requirement of a lawyer for children during custodial interrogation in a homicide or sex offense case,
- Expands current custodial interrogation videotape requirements to apply in all felonies and misdemeanor sex offense cases for children under the age of 18, and
- Sets out wording for Miranda warnings for all children under the age of 18.

SB 2370 passed the Senate on a unanimous roll call.

Why This Bill is Necessary:

2016 is the 50 Year Anniversary of Miranda – Children should not waive Miranda without the advice of a lawyer. This brings Illinois, home of the world’s first juvenile court, closer to this basic human right standard.

Currently, children who cannot sign a contract until they are 18, are allowed to waive Miranda on their own without a lawyer. Courts routinely uphold waiver of *Miranda* by children, applying a *totality* test where youth is just one factor.

Police are even allowed to use deception in interrogating children. Courts uphold “waivers” of lawyers by children even when police “misrepresent” the evidence. The IL Supreme Court holds that “deception is not per se unlawful” *People v Patterson, 2014 IL 115102*, and the “use of deception or subterfuge does not alone invalidate a confession...” *In re DLH, 2015 IL 117341* .

In IL, police have significantly greater protections than children, including written *Miranda* warnings, when under investigation for misconduct. <http://goo.gl/FKsu1G>

The #'s of youth impacted are small – in 2014, there were approximately 18 statewide juvenile arrests for homicide for children age 10-15 – but the impact is profound, sending children to adult court and adult prison, without first consulting with a lawyer during police questioning. **Further**, the right to consult with a lawyer prior to and during custodial interrogation is considered a human right for children (and adults) in Europe (since 2008), and has been a practice in place in the U.K for over 20 years with great success – cases are still solved but without false confessions.

False Confessions – especially by children – are common --- this bill would ensure children under 15 subject to a custodial interrogation for homicide or sex offenses have the advice of a lawyer. Statements made by minors during a custodial interrogation place them at risk of adult trial and adult prison sentences. Transfer provisions are so complex that it requires the assistance of a lawyer to determine the consequences of a statement--- especially in circumstances involving accountability and/or the felony murder rule.

Juvenile brains less able to understand rights: Brain research reveals children are less competent than adults to make legal decisions and may not understand their rights under *Miranda*.

- **Only 20.9% of minors, as compared to 42.3% of adults, understand the *Miranda* warnings.**
- **63.3% of minors, as compared to 37.3% of adults, fail to understand at least one “critical” word in the standard *Miranda* warnings.**
- **Among minors, the least understood warning is the right to consult with an attorney prior to questioning.**
 - **62% of minors believe that a judge can penalize them for exercising their right to remain silent.**
 - **96% of 14 year olds do not have an adequate understanding of the consequences of waiving their rights.**



SB 2370, Van Pelt---Hunter---Collins-Lightford-Harris, Noland, Trotter Steans, Jones, Martinez, Biss, Hutchinson, Delgado, Radogno

Rep: Currie-Sandack-Nekritz-Wheeler-Sims, Mitchell, Ford, Evans, Turner, Flowers, Tryon, Reaves-Harris, Cassidy, Dury, Jones, Welch, Mayfield, Gabel, Guzzardi, Hernandez, Burke, Acevedo

SUPPORTERS of SB 2370 include:

ACLU of Illinois
Adler University on Public Safety and Social Justice
AFSCME Council 31
Ambassadors for Christ
Ann and Robert H. Lurie Children’s Hospital of Chicago
Cabrini Green Legal Aid
Catholic Conference of Illinois
Chicago Bar Association
Childcare Association of Illinois
Communities United
Community & Behavioral Healthcare Association
Community Renewal Society
Cook County Justice for Children
Cook County Justice Advisory Council
Cook County President’s Office
Enlace Chicago
First Defense Legal Aid
Illinois Anti-Foreclosure Coalition
Illinois Attorney General’s Office
Illinois Balanced and Restorative Justice (IBARJ)
Illinois Collaboration on Youth
Illinois Consortium on Drug Policy, Roosevelt Univ.
Illinois Juvenile Justice Commission
Illinois Justice Project
Illinois PTA
Illinois Public Defender Association
Illinois State Bar Association
Inner City Muslim Action Network
Jail Brakers
James B. Moran Center for Youth Advocacy
John Howard Association
Juvenile Justice Initiative
Office of the Cook County Public Defender
Lawndale Christian Legal Center
League of Women Voters of Illinois
Loyola University Law School
Mansfield Institute of Social Justice & Transformation
Mothers Opposed to Violence Everywhere
National Association of Social Workers
National Juvenile Defender Center
National Legal Aid and Defender Association
Precious Blood Ministry of Reconciliation
Progressive Public Affairs
Reimagine Justice Illinois
Safer Foundation
Sargent Shriver Center on Poverty Law
The Sawyer Law Office
Strengthening Chicago’s Youth (SCY),
(convened by Lurie Children’s Hospital of Chicago)
Tamms Year Ten
Target Area Development Corporation
TASC
Union League Club of Chicago
United Congress of Community and Religious Organizations
VOYCE

And numerous individuals – 110 total witness slips filed in support of this bill.
(Including the above listed organizations.)