



February 17, 2016

Senator Patricia Van Pelt
Senator 5th District
218A Capitol Building
Springfield, IL 62706

Dear Senator Van Pelt:

The National Juvenile Defender Center (NJDC) strongly supports youth having access to counsel at interrogation. The current provisions in SB 2370, providing for the Right to Advice of Counsel for Children, advances youth rights.

NJDC is a national organization that strives to promote justice for all children by ensuring excellence in juvenile defense. NJDC provides technical assistance, training and support to juvenile defenders across the country. All youth have the right to vigorous, well-resourced representation while acknowledging the unique and special status of childhood and the impact that immaturity, disabilities, and trauma may have on that representation. NJDC works to improve access to and quality of counsel for all young people in delinquency court, and supports the reform of harsh laws negatively impacting our nation's youth.

In providing counsel to youth during interrogation, SB 2370 is consistent with the guarantee of due process for young people in the juvenile and adult justice systems,ⁱ and with the U.S. Supreme Court's longstanding recognition that youth are more susceptible to police coercion and more in need of counsel when facing police interrogation.ⁱⁱ Protections afforded youth under *In re Gault* and the application of *Miranda* protections to youth in *Fare v. Michael C.*ⁱⁱⁱ establish that juveniles in police custody are due a heightened level of protection. As recently as 2011, the Court re-articulated the differences between youth and adults, ultimately holding that youth should be held to a different standard regarding, among other things, police interrogations.^{iv}

The advice of counsel during interrogation is critical to protecting youth and to helping them navigate the justice system and fully understand the consequences of a statement. Researchers and scholars alike have demonstrated that adolescents have difficulty comprehending *Miranda* warnings and are more susceptible to coercion during the interrogation process.^v

As supported by the National Juvenile Defense Standards, the presence of an attorney during interrogation is likely to promote observance of a young client's constitutional rights and can reduce the possibility of conflict between the client and officers.^{vi} The National Standards further assert that, "... the early and timely appointment of counsel is vital to ensuring that clients' rights are protected."^{vii}

SB 2370 would guarantee that children be given the protection of an attorney during custodial interrogation and further protects youth by prohibiting the use of any statements taken without counsel. In attempting to counteract youth's susceptibility to coercion by police during

interrogations, SB 2370 also protects against the likelihood of obtaining false confessions leading to wrongful convictions.

As home to the first juvenile court in the United States, Illinois has an important continuing role to play in juvenile justice reform. This bill will protect the rights of young people and greatly improve the administration of justice.

Sincerely,



Kim Dvorchak
Executive Director

cc: Elizabeth Clarke, Co-Director
Midwest Juvenile Defender Center

ⁱ *In re Gault*, 387 U.S. 1 (1967).

ⁱⁱ See *Haley v. Ohio*, 332 U.S. 596, 599 (1948) (“That which would leave a cold man unimpressed can overawe and overwhelm a lad in his early teens.”); *Gallegos v. U.S.*, 370 U.S. 49, 53 (1962).

ⁱⁱⁱ 442 U.S. 707 (1979).

^{iv} *J.D.B v. North Carolina*, 131 S. Ct. 2394 (2011).

^v Kaitlyn McLachlan et al., Examining the Role of Interrogative Suggestibility in Miranda Rights Comprehension in Adolescents, 35 *LAW & HUM. BEHAV.* 165 (2011); Zoe Overbeck, No Match for the Police: An Analysis of Miranda’s Problematic Application to Juvenile Defendants, 38 *Hastings Const. L. Q.* (2011)(reviewing studies examining adolescents’ comprehension of Miranda warnings, and adolescents’ vulnerability in police interrogations).

^{vi} See NAT’L JUV. DEF. STDS. § 3.2 cmt.: REPRESENTATION OF THE CLIENT IN POLICE CUSTODY.

^{vii} NAT’L JUV. DEF. STDS. § 10.2: ADVOCATE FOR EARLY ACCESS TO COUNSEL.