

Providing Counsel During Interrogation for Minors Charged with Murder:

This bill allows the use of statements made without the provision of counsel by minors in murder cases in juvenile court, but creates presumption against use to try youth as adult.

Under the provisions of this bill, if a minor is interrogated without counsel in a murder case, the resulting statement can be used against the minor in juvenile court, but there is a presumption against using the statement against the minor in adult court.

Current Law Regarding Counsel for Juveniles:

Current law prohibits the use of statements made without counsel for juveniles under the age of 13 during interrogation for murder and sex offenses. This prohibition applies to the use of statements in both juvenile and adult court proceedings. However, there is no requirement for counsel for minors over the age of 13 when questioned on a murder charge. The numbers are few (in 2007 there were 43 juveniles arrested for murder in Illinois, according to CJIA), but the need for counsel is great.

Why This Bill is Necessary:

Risk of trial in adult court: Minors age 13 - 17 have more complex legal decisions to make than adults charged with these serious offenses. Statements made by juveniles accused of these serious offenses places them at the highest risk of adult-type punishments. Transfer provisions are so complex that it requires assistance of counsel to determine the consequences of a statement.

Understanding application of accountability: This bill will also affect minors who are charged by accountability and need the assistance of counsel to determine whether accountability provisions may apply.

Juvenile brains less able to understand rights: Brain research reveals that juveniles are less competent than adults to make legal decisions and may not understand Miranda.

- Only 20.9% of juveniles, as compared to 42.3% of adults, understand the *Miranda* warnings.
- 63.3% of juveniles, as compared to 37.3% of adults,

fail to understand at least one “critical” word in the standard *Miranda* warnings.

- Among juveniles, the least understood warning is the right to consult with an attorney prior to responding to police questioning.
- 62% of juveniles 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.

In the last four months, Cook County has vacated the convictions of eleven men. Nine African American children were wrongfully convicted and served a total of 145 years in prison for rape/murders they did not commit. Seven of those nine children falsely confessed to these crimes and these confessions were used to obtain their convictions. If this bill had been law at the time of these convictions, none of these children would have been in prison. Not passing this law is an expensive decision. On January 26th, 2012, another child who was wrongfully convicted for murder in Illinois was awarded \$25million by a jury.

Supporters of this bill include:

Juvenile Justice Initiative;
Illinois Parent Teacher Association
ACLU of Illinois
DLA Piper, LLP
Enlace Chicago
First Defense Legal Aid
Project Nia

For more information, contact JJI at 847/864-1567.