

UNDERSTANDING THE DIFFERENCE BETWEEN WAIVE AND WAVE: THE IMPORTANCE OF ATTORNEYS AT YOUTH INTERROGATIONS

CHILDREN DO NOT UNDERSTAND MIRANDA WARNINGS

- 36% of exonerees who were under the age of 18 at the time of the alleged offense had falsely confessed, triple the estimated rate of false confessions for all ages.
- Standard Miranda warnings require a tenth-grade level of reading comprehension.
- ❖ **This bill will require that developmentally appropriate Miranda warnings be developed.**

CHILDREN ARE DIFFERENT

- For interrogations there is a “Reasonable Juvenile Standard.” Age is a factor when determining custody for Miranda purposes.
- Youth lack the experience, developmental maturity, and judgment to appreciate the long-term consequences or implications of their actions.
- ❖ **This bill requires an attorney consultation prior to interrogation to ensure that youth understand their rights.**

ATTORNEY COUNSULATION IS IMPERATIVE

- According to the American Academy of Child and Adolescent Psychiatry juveniles should have an attorney present during questioning.
- The American Bar Association resolved *more than 17 years ago* that youth should not be allowed to waive counsel without prior consultation with counsel.
- ❖ **This bill does not allow anyone to waive the attorney consultation prior to interrogation.**

PARENTS MUST BE NOTIFIED UPON THEIR CHILD’S ARREST

- Existing law is insufficient to ensure that parents are in fact notified upon their child’s arrest.
- ❖ **This bill requires police to make reasonable attempts and to document those attempts to *actually notify* parents of their child’s arrest, the basis for the arrest, and where their child is located.**

NO FISCAL IMPACT: OPD IS PREPARED

- The Office of the Public Defender is statutorily authorized to represent children at interrogations under existing law.
- The Office of the Public Defender is prepared to implement representation at interrogations of youth using existing resources.
- ❖ **This bill permits attorney consultation prior to interrogation to be in person, by phone or video.**