



TESTIMONY IN SUPPORT OF House Bill 5298

Hearing Date: April 1, 2025

Human Rights for Kids respectfully submits this testimony for the official record to express our support for H 5298 to ensure that any child who is subject to a custodial interrogation has access to a parent or legal guardian prior to being questioned. Human Rights for Kids is a national non-profit organization dedicated to the promotion and protection of the human rights of children. Our work centers a human rights framework to highlight and better understand the connection between Adverse Childhood Experiences (ACEs) and childhood trauma to justice system involvement and negative life outcomes.

This bill addresses the important issue of protecting children's Constitutional and human rights at the initial stages of contact with the criminal justice system. From the point of entry and arrest to sentencing and incarceration our treatment of children in the justice system is long overdue for re-examination and reform. Ensuring children have the right to consult with a parent or legal guardian prior to a custodial interrogation will reduce incidents of false confessions by youth and better align Rhode Island's policies with juvenile brain and behavioral development science.

Children are particularly susceptible to giving false confessions because they are not as sophisticated as adults when interacting with the criminal justice system and being interrogated by law enforcement. Children rarely understand the consequences and implications of law enforcement interrogations on their due process rights and the impact they may have during trial. Children are 3 times more likely than adults to falsely confess to a crime and recent data suggests 34% of young people under the age of 18 falsely confess to crimes. One important aspect of House Bill 5298 is safe-guarding children's rights to ensure that no child in Rhode Island falsely confesses to a crime they did not commit because they don't fully understand how the justice system works or how to assert their Constitutional Rights.

Juvenile brain and behavioral development science studies have shown that children's brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. The amygdala is responsible for immediate reactions including fear and aggressive behavior. This makes children less capable than adults of regulating their emotions, control their impulses, evaluate risk and reward, and engage in long-term planning. This is also what

makes children more vulnerable, more susceptible to peer pressure, being heavily influenced by their surrounding environment, and being more easily manipulated or deceived. Children's underdeveloped brains, proclivity for irrational decision-making, and inability to understand the gravity of their decisions is why society does not allow children to vote, enter into contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that children are impulsive, immature, and lack solid decision-making abilities until they've reached adulthood. It is for these same reasons that we also have policies in place to protect children everywhere – except in the criminal justice system. This bill will put in place greater protections for young children at the point of entry, to ensure they speak with a parent or legal guardian before they waive their Miranda Rights or are subject to interrogation.

As new evidence surrounding child brain development has emerged, American society has begun to recognize the need to enhance due process protections for children to safeguard their rights and ensure they do not falsely confess to crimes. In 2013, the American Academy of Child and Adolescent Psychiatry adopted the recommendation that children have an attorney present during questioning by police or other law enforcement agencies. The Academy also recommended that children should have a right to consult with parents prior to and during questioning.¹ The following year, the American Psychological Association adopted a resolution on criminal interrogations, recommending that “vulnerable suspect populations, including youth, be provided special and professional protection during interrogations such as being accompanied and advised by an attorney or professional advocate.”²

Legislatures around the country have also acted and this Legislation has passed with wide bi-partisan support. California, Hawaii and Maryland have enacted similar legislation to House Bill 5298 requiring that children consult with counsel prior to any custodial interrogation ensuring that child status is accounted for in the context of custodial interrogation and that children's constitutional rights are safeguarded. Other states such as Illinois, Oklahoma, Utah, Iowa, North Carolina, and Virginia have also created statutory protections to safeguard children's constitutional rights prior to a custodial interrogation by passing nearly identical legislation requiring a parent or guardian to be notified prior to interrogation.

In 2019, the U.N. Committee on the Rights of the Child (CRC) affirmed that the assistance available to children involved in the justice system under the Convention on the Rights of the Child should be provided throughout the entire process, “beginning with the interviewing (interrogation) of the child by the police . . .” Articles 37 and 40 of the CRC specifically state that children should have prompt access to legal assistance once their liberty has been deprived and that they should not be “compelled to give testimony or confess guilt.” These human rights principles are also reflected in the recent policy recommendations by both the APA and the AACAP.

¹https://www.aacap.org/aacap/policy_statements/2013/Interviewing_and_Interrogating_Juvenile_Suspects.aspx

² <https://www.apa.org/about/policy/interrogations>

It is our responsibility as a society to safeguard and protect the rights of our children. Nowhere is that more evident or needed than in the criminal justice system where the consequences of failing to do so can have a profound, life-altering impact. Children are not as sophisticated as adults when it comes to interacting with the justice system and often lack the capacity to fully appreciate the meaning and significance of the right to remain silent. They can easily be manipulated into confessing to crimes they did not commit. It is for these reasons that Human Rights for Kids respectfully submits this testimony in support of House Bill 5298.

Thank you for your time and consideration.

Submitted by: Teresa Kominos, Policy Counsel, Human Rights for Kids
tkominos@humanrightsforkids.org