

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.

Critical for the few juveniles arrested for murder:

According to the Illinois Criminal Justice Information Authority, in 2007, there were 43 juveniles arrested for murder (39 were arrested for first-degree murder, 3 were arrested for involuntary, manslaughter/reckless homicide, and 1 was arrested for second-degree murder).

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.

Supporters of this bill include:

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

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