

SENATOR RICARDO LARA

LEGISLATIVE FACT SHEET

Miranda Rights for Youth Senate Bill 1052

Summary:

SB 1052 will require youth under the age of 18 to consult with legal counsel before they waive their constitutional rights. The bill also provides guidance for courts in determining whether a youth's *Miranda* waiver was made in a voluntary, knowing, and intelligent manner as required under existing law.

Background:

Currently in California, children—no matter how young—can waive their *Miranda* rights. When law enforcement conducts a custodial interrogation, they are required to recite basic constitutional rights to the individual, known as *Miranda* rights, and secure a waiver of those rights before proceeding. The waiver must be voluntarily, knowingly, and intelligently made. *Miranda* waivers by juveniles present distinct issues. Recent advances in cognitive science research have shown that the capacity of youth to grasp legal rights is less than that of an adult. This is especially true for very young, developmentally disabled, or cognitively delayed children, and for those with mental health problems.

Although existing law assures counsel for youth accused of crimes, the law does not require law enforcement and the courts to take steps recognizing that youth are different from adults. It is critical to ensure a youth understands his or her rights before waiving them and courts should have clear criteria for evaluating the validity of waivers.

Recently an appellate court held that a 10 year old boy made a voluntary, knowing, and intelligent waiver of his *Miranda* rights. When the police asked if he understood the right to remain silent, he replied, "Yes, that means that I have the right to stay calm." The California Supreme Court declined to review the lower court's decision. Several justices disagreed, and in his dissenting statement Justice Liu noted that many states have taken legislative action on this issue, and suggests the California may want to as well, stating that California law on juvenile waivers is a half-century old and, "predates by several decades the growing body of scientific research that the [U.S. Supreme Court] has repeatedly found relevant in assessing differences in mental capabilities between children and adults."

Studies have demonstrated youth often do not fully comprehend the consequences of waiving their rights. They are also much more likely than adults to waive their rights and to confess to crimes they did not commit. A recent study of exonerations found that 13 percent of adults had falsely confessed, compared to 42 percent of juveniles. The ramifications for both the individual and society of false confessions are far-reaching.

Problem:

Our society recognizes that children are especially vulnerable in legal situations, which is why youth cannot buy alcohol and cigarettes or enter into legal contracts, yet our state's laws do not recognize their diminished capacity to understand their *Miranda* rights. Other states have acknowledged the difference between youth and adults and passed laws providing safeguards for youth. Unfortunately, for juveniles in California, our justice system only provides *Miranda* rights in theory. In practice, the system is flawed and results in serious disproportionate negative consequences for youth who have the same rights as adults, but do not have the same capacity to understand their rights or the consequences of waiving them.

Solution:

SB 1052 will require youth under 18 to consult with counsel prior to waiving their rights. This will preserve youth's constitutional rights and protect the integrity of our criminal justice system. This bill will also provide courts with guidance for determining the validity of a *Miranda* waiver and bring California's law in line with modern science. By ensuring youth understand their rights, we can ensure the outcome of interrogations are just and lawful, and create greater trust, accountability, and due process for all.

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