



## Assemblymember Chris R. Holden, 41<sup>st</sup> Assembly District

### Assembly Bill 2644 - Juveniles: Custodial Interrogations

#### **SUMMARY**

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This bill would require a statement made by a youth 25 years of age or younger to be presumed involuntary as evidence against the youth in any criminal or juvenile court proceeding if, during an interrogation, a law enforcement officer used threats, physical harm, deception, or psychologically manipulative interrogation tactics, as specified.

#### **BACKGROUND/EXISTING LAW**

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According to the Center on Wrongful Convictions of Youth (CWCY), false confessions are one of the leading causes of wrongful convictions, accounting for roughly 25% of all convictions that were later overturned based on DNA evidence. Citing the CWCY's work, the U.S. Supreme Court concluded in 2011 that the risk of false confession is "all the more troubling...and all the more acute" when the subject of custodial interrogation is a juvenile. Its conclusion has been backed up by a slew of research. One leading study of 125 proven false confession cases found that 63% of false confessors were under the age of 25 and 32% were under eighteen.

Current law requires that a youth 17 years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of the above-specified rights. However, existing fails to recognize that even an informed waiver of rights does not protect youth from falsely implicating themselves or others in serious crimes when an interrogation involves coercive, manipulative and guilt presumed law enforcement techniques. Additionally, simply protecting youth under 18 from improper interrogation methods that increase the risk of a false confession is not in line with bodies of research that indicate that a young person's brain is not fully developed until the age of 25.

California has taken steps to recognize individuals at the age of 25 should still be considered youths in the juvenile court system. In fact, in 2017, the Legislature approved and Governor Brown signed AB 1308 (Stone), which requires the Board of Parole Hearings to conduct youth offender parole hearings for offenders that were 25 years of age or younger at the time of the offense.

AB 1308 took an important step in recognizing individuals that were age 25 or younger at the time of the offense engaged in conduct during these formative years and should be treated with a different level of scrutiny given their vulnerabilities. This proposal also recognizes that since the brain is not fully developed at the age of 25, these individuals should be shielded from improper interrogation methods as well.

A confession is viewed by juries as the most direct evidence of one's guilt and yet juries struggle with understanding how someone might falsely implicate themselves or another in criminal conduct. The risks are too great, and the interrogation methods delineated in AB 2644 have been recognized in California case law as so egregious that they can render a resulting statement involuntary and violative of a young person's constitutional rights.

#### **EXISTING LAW**

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Section 627 of the Welfare and Institutions Code

#### **THE SOLUTION**

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This bill would require a statement made by a youth 25 years of age or younger to be presumed involuntary as evidence against the youth in any criminal or juvenile court proceeding if, during an interrogation, a law enforcement officer used threats, physical

harm, deception, or psychologically manipulative interrogation tactics, as specified.

AB2644 is in line with a national movement to confront this serious issue and closely follows newly enacted laws in Illinois and Oregon.

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#### **SUPPORT**

- California Innocence Project (Support)
- Loyola Project for the Innocent (Support)
- Northern California Innocence Project (Support)

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#### **FOR MORE INFORMATION**

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