

Defending CIPA

What is CIPA?

The Child Interrogation Protection Act (CIPA) is a Maryland state law **passed in 2022** to ensure minors detained by police in connection with a crime understand their Constitutional right to not incriminate themselves. In order to make statements from minor defendants admissible in court, CIPA requires law enforcement personnel to make a good faith effort to notify the parents of a child taken into custody and to give those minors access to a lawyer who can explain their rights in an age-appropriate way before any police interrogation takes place. The purpose of being read Miranda rights—your “right to remain silent”, guaranteed by the fifth amendment—is to protect regular people from coercive police questioning that can too readily lead to a false confession. CIPA simply ensures that children understand their Constitutional rights and can exercise them.

CIPA Facts

CIPA does not prohibit police from investigating a crime or from talking to witnesses.

Fact: When conducting an investigation, police can freely speak with anyone — victims, witnesses, other people who may have useful information (e.g., an arrested person’s associates or family members). CIPA only ensures that a child who is taken into custody as a suspect in an alleged crime understands their Constitutional right to remain silent before they decide whether to talk to the police—and it includes an important exception that protects the public from danger.

An attorney is best equipped to advise individuals, including children, of their Constitutional rights.

Fact: The US Constitution does not permit parents to waive Fifth Amendment rights on behalf of their children. Further, not all parents understand the legal system well enough to provide legal advice.

Suggested Responses to Questions About CIPA

Example Written Statement:

It is our responsibility as law makers to ensure that our justice system protects people’s Constitutional rights. This is especially true when police detain someone and want to question them in connection with an investigation. **When it comes to minors, we have the added responsibility of making sure they are not only informed of their rights, but also that they understand what their rights are.** This is why we passed The Child Interrogation Protection Act (CIPA). CIPA does not prohibit police from investigating a crime, interviewing other children who are witnesses, or talking to community members. Police are still able to interrogate a minor child, but the law requires that the child speak to an attorney first to make sure they understand their rights, the process, and what decisions they can make. Attorneys are available 24/7 by phone to avoid any delay in serving children who are detained by police. Lastly, there is an exception to the attorney requirement if there is an immediate threat to public safety.

The legislature studied this issue very carefully. An overwhelming amount of evidence shows that **minors, even 16 and 17 year olds, do not understand their Constitutional Miranda rights and that children have a false confession rate three times higher than that of adults.** Since Maryland law allows children as young as 12 to be arrested, and allows children as young as 14 to be charged as adults, it is extremely important that

children understand their rights. False confessions don't help victims, and they don't serve justice.

Example Verbal Statement:

"It is our responsibility as law makers to ensure that our justice system protects people's Constitutional rights. This is especially true when police detain someone and want to question them in connection with an investigation. The Child Interrogation Protection Act works together with Miranda rights — "You have the right to remain silent," and so on — to ensure minors understand what their rights are and what choices they can make. When it comes to children, we have the added responsibility of making sure they are not only informed of their rights, but also that they know what those rights mean. We can easily imagine how nervous a child might feel during a police interrogation, and the facts show that kids are far more likely to confess to crimes that they did not commit—either because they don't understand what's happening, or they're just saying what they think police want to hear in order to make the interrogation end. Police can still investigate crimes, interview witnesses, including children, and they can interrogate a child after that child has talked to an attorney if the child decides to waive the right to remain silent. Achieving justice doesn't only mean seeing a case resolved; it also means ensuring that innocent people—especially kids—don't end up being punished for something they did not do. And that the person who is actually responsible is identified and held accountable."

Example Shorter Statement:

"It is our responsibility as law makers to ensure that our justice system protects people's Constitutional rights. This is especially true when police detain children and want to question them in connection with an investigation. When it comes to minors, we have the added responsibility of making sure they are not only informed of their rights, but also that they understand what their rights are and what choices they can make. That is why we passed The Child Interrogation Protection Act (CIPA). This law does not prohibit police from investigating a crime, interviewing other children who are witnesses, or talking to community members. CIPA simply requires that a child taken into custody as a suspect is able to speak to an attorney prior to any interrogation to make sure they understand their rights, the process, and what decisions they can make. Achieving justice doesn't only mean seeing a case resolved; it also means ensuring that innocent people — especially kids — don't end up being punished for something they did not do."

Additional Resources

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Summary: CIPA is an important protection when young people have been accused of committing a crime. It requires law enforcement to respect children and adolescents' Constitutional rights as they respond to and investigate allegations of criminal behavior.



For more information, please contact alice@advancemaryland.org.

* The Fifth Amendment to the US Constitution provides that "no person...shall be compelled in any criminal case to be a witness against himself..." The Sixth Amendment states that "[i]n all criminal prosecutions, the accused shall enjoy the right...to have the Assistance of Counsel for his defense [sic]." Thus, the accused has the right to the advice of an attorney prior to waiving his/her privilege against self-incrimination. In 1964, the Supreme Court extended these rights to youth in the case known as *In re Gault*. Since then, young people charged with offenses have been recognized to hold the same right as adults against self-incrimination as specified in the Fifth and Sixth Amendments.