

116TH CONGRESS
2D SESSION

H. R. 8685

To protect minors from premature waiver of their constitutional rights during a custodial interrogation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2020

Mr. CÁRDENAS (for himself and Mr. KENNEDY) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To protect minors from premature waiver of their constitutional rights during a custodial interrogation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Miranda
5 Rights for Kids Act”.

6 **SEC. 2. WAIVER OF MIRANDA RIGHTS BY A MINOR.**

7 (a) IN GENERAL.—Chapter 223 of title 18, United
8 States Code, is amended by inserting after section 3051
9 the following:

1 **“§ 3501A. Custodial interrogation of a minor**

2 “(a) WAIVER.—A minor who is subject to a custodial
3 interrogation may only waive the privilege against self-in-
4 crimination or the right to assistance of legal counsel if—

5 “(1) the minor consults with legal counsel in
6 person before such waiver; and

7 “(2) the minor has contact with a parent or
8 legal guardian in person, by telephone, or by video
9 conference to receive consultation before such waiv-
10 er.

11 “(b) EXCEPTION.—Subsection (a) shall not apply
12 if—

13 “(1) custodial interrogation of a minor is nec-
14 essary to gather information to protect life or prop-
15 erty from an imminent threat; and

16 “(2) the questions that were asked during the
17 custodial interrogation were reasonably necessary to
18 obtain such information.

19 “(c) ASSIGNED COUNSEL.—

20 “(1) IN GENERAL.—A minor who is subject to
21 a custodial interrogation shall have the right to have
22 the legal counsel assigned to the minor’s case phys-
23 ically present during such interrogation.

24 “(2) VIOLATION.—In the case of custodial in-
25 terrogation of a minor, it shall be a violation of this
26 subsection for the minor to be represented by any

1 substitute counsel temporarily assigned to represent
2 the minor.

3 “(d) INADMISSIBLE.—In any criminal prosecution
4 brought by the United States or by the District of Colum-
5 bia, any statement given by a minor during a custodial
6 interrogation that does not comply with this section, and
7 any evidence derived from that statement, shall be inad-
8 missible.

9 “(e) MINOR DEFINED.—In this section, the term
10 ‘minor’ means an individual who has not attained 18 years
11 of age.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for chapter 223 of title 18, United States Code, is amend-
14 ed by inserting after the item relating to section 3501 the
15 following item:

“3501A. Custodial interrogation of a minor.”.

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