

# Strategies for Youth



## Fact Sheet on An Act Ensuring Integrity in Juvenile Interrogations

**S 954**

Sponsor: Rep. Lindsay Sabadosa

**H 1756**

Sponsor: Sen. Sal DiDomenico

### False Confessions Become Wrongful Convictions

- 1 Fact:** Minors are more likely to *falsely* confess to crimes. In exonerations of people who were wrongfully convicted as children, 34% falsely confessed to a crime they did not commit, as compared to only 10% of exonerated adults.<sup>1</sup> Confessions carry a lot of weight with juries, which means **false confessions become wrongful convictions**.
- 2 Fact:** The adolescent brain is less capable of assessing risk, understanding and weighing consequences, perceiving deceit and manipulation, and withstanding coercion. These capacities are further diminished in high stress situations with authority figures, such as interrogations.<sup>2</sup>
- 3 Fact:** In Massachusetts, police officers are permitted to use deceptive tactics to elicit confessions from minors.<sup>3</sup>
- 4 Fact:** Leading, renowned law enforcement organizations have rejected the use of such deception in interrogations because these tactics are more likely to result in false confessions, undermining law enforcement investigations and legitimacy.
- 5 Fact:** Five state legislatures have banned the use of deception during juvenile interrogations since 2021 – California, Delaware, Illinois, Oregon, and Utah. Four state legislatures have recently considered, or are actively considering, similar legislation: Colorado, Nebraska, New York and Rhode Island.

***For more information, please contact Kristen Wheeler at Strategies for Youth***

kew@strategiesforyouth.org • (617) 714-3789

<sup>1</sup> Registry of Exonerations, Fact Sheet, Table: Age and Mental Status of Exonerated Defendants Who Falsely Confess – 18 April 2022  
<https://www.law.umich.edu/special/exoneration/Documents/Age%20and%20Mental%20Status%20FINAL%20CHART.pdf> (last visited 11.27.22)

<sup>2</sup> See Redlich, A.D., Goodman, G.S. (2003). "Taking responsibility for an Act Not Committed: The Influence of Age and Suggestibility." *Law & Human Behavior* 27, 141-156.

<sup>3</sup> *Com. v. DiGiambattista*, 442 Mass. 423 (2004). See also, *Frazer v. Cupp*, 394 US 731 (1969) and *Oregon v. Mathiason*, 429 US 492 (1977)(permitting use of deceitful practices in custodial interrogations, federally).

# Strategies for Youth



## 5 Reasons Why This Legislation is Good for Public Safety and Kids

- 1** Using deceit during juvenile interrogations simultaneously puts the truth and investigations at risk. Minors in interrogation rooms will prioritize trying to get home and pleasing their questioners, without careful reflection on the long-term consequences of such an approach, creating a substantial risk of false confessions.<sup>4</sup>
- 2** False confessions lead law enforcement and the justice system to focus on the wrong suspect, leaving the public vulnerable to true offenders; undermining actual justice for victims; calling into question police legitimacy and credibility; and leaving the Commonwealth exposed to costly lawsuits.
- 3** Deceit is not the only avenue to obtaining a confession. Major law enforcements organizations, like the International Association of Chiefs of Police and Wicklander-Zulowski, advise other, more reliable techniques for interrogating suspects. These ensure that investigations will proceed without risking a miscarriage of justice or leaving the actual offender at large.
- 4** Youth of color, non-native English speakers and youth with learning disabilities and developmental deficits are over-represented<sup>5</sup> in rates of arrested youth in Massachusetts. Many of the attributes associated with processing and language deficiencies exacerbate adolescent brain vulnerabilities, placing these youth at higher risk of providing false evidence against themselves when deceptive interrogation practices are used.
- 5** Common sense, neurological research, current state law and U.S. Supreme Court<sup>6</sup> case law establish that **youth are different from adults and should be treated differently**. The legislature demands that minors be treated differently in numerous contexts. This legislation is a continuation of Massachusetts' commitment to a fair and just juvenile justice system – to recognize these innate differences in the high stakes realm of criminal interrogations.

***“Deception can never be utilized under any condition in our criminal justice system and particularly against juveniles. I say this as a lawyer, legislator, and former prosecutor.”***

—ILLINOIS REPUBLICAN HOUSE MINORITY LEADER JIM DURKIN

<sup>4</sup> See Redlich, A.D., Goodman, G.S. (2003). “Taking responsibility for an Act Not Committed: The Influence of Age and Suggestibility.” Law & Human Behavior 27, 141-156.

<sup>5</sup> Juvenile Justice Policy & Data Board (JJPAD), Office of the Child Advocate (Nov. 2022) (reporting Black youth in MA were over 4x more likely, and Latino youth were almost 3x more likely, to experience a custodial arrest (instead of a summons) than white youth in MA).

<sup>6</sup> “We have observed that children ‘generally are less mature and responsible than adults’; that they ‘often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them’; that they ‘are more vulnerable or susceptible to ... outside pressures’ than adults ... ‘no matter how sophisticated’ a juvenile subject of police interrogation ‘cannot be compared’ to an adult subject.” *J.D.B. v. North Carolina*, 131 S.Ct. 2394, 2404 (2011)