
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguin, Chair
2025 - 2026 Regular

Bill No: AB 1905 **Hearing Date:** June 30, 2026
Author: Schultz
Version: May 22, 2026
Urgency: No **Fiscal:** No
Consultant: SJ

Subject: *Juveniles: custodial interrogation*

HISTORY

Source: California Public Defenders Association
California Innocence Coalition

Prior Legislation: AB 2644 (Holden), Ch. 289, Stats. of 2022
SB 203 (Bradford), Chapter 335, Stats. of 2020
SB 395 (Lara), Ch. 681, Stats. of 2017
SB 1052 (Lara), vetoed, 2016

Support: ACLU California Action; California Attorneys for Criminal Justice; Ella Baker Center for Human Rights; Felony Murder Elimination Project; Initiate Justice; Justice2Jobs Coalition; La Defensa; Local 148 Los Angeles County Public Defender's Union; San Quentin Skunkworks; Smart Justice California

Opposition: California State Sheriffs' Association; Los Angeles County District Attorney's Office; Los Angeles County Professional Peace Officers Association; Peace Officers Research Association of California

Assembly Floor Vote: 49 - 16

PURPOSE

The purpose of this bill is to prohibit a law enforcement officer from seeking to obtain information or statements from a person who was 17 or younger at the time the crime was committed and under 26 at the time of custody, and the information or statements are sought by undercover officers or informants; and require the court to consider a violation of this prohibition in adjudicating the admissibility of statements obtained and determining the credibility of an officer.

Existing law provides that persons may not be compelled in a criminal case to be a witness against themselves. (Cal. Const., art. I, § 15.)

Existing law requires, prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth 17 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. Prohibits waiver of the consultation. (Welf. and Inst. Code, § 625.6, subd. (a).)

Existing law requires the court, in adjudicating the admissibility of statements of a youth 17 years of age or younger made during or after a custodial interrogation, to consider the effect of failure to comply with the consultation requirement, as well as any willful violation in determining the credibility of a law enforcement officer. (Welf. and Inst. Code, § 625.6, subd. (b).)

Existing law specifies that the consultation requirement does not apply to the admissibility of statements of a youth 17 years of age or younger if both of the following criteria are met:

- The officer who questioned the youth reasonably believed the information he or she sought was necessary to protect life or property from an imminent threat; and
- The officer's questions were limited to those questions that were reasonably necessary to obtain that information. (Welf. and Inst. Code, § 625.6, subd. (c).)

Existing law exempts probation officers from complying with the consultation requirement in their normal course of duties, as specified. (Welf. and Inst. Code, § 625.6, subd. (d).)

Existing law prohibits a law enforcement officer from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics during a custodial interrogation of a person 17 years of age or younger relating to the commission of a misdemeanor or felony. (Welf. and Inst. Code, § 625.7, subd. (a).)

Existing law requires that a minor taken into a place of confinement be advised of the right to make at least two phone calls, one completed to a parent or guardian, or a responsible relative, or employer and one to an attorney. (Welf. & Inst. Code, § 627, subd. (b).)

Existing law requires the custodial interrogation of a juvenile suspected of committing murder to be electronically recorded in its entirety. (Welf. & Inst. Code, § 626.8, see also Pen. Code, § 859.5.)

Existing law provides that when a minor is taken into temporary custody before a probation officer, and it is alleged that the minor has violated a law defining a crime, the probation officer must advise the minor that anything the minor says can be used against him, and advise the minor of their constitutional rights, including the right to remain silent and the right to counsel. (Welf. & Inst. Code, § 627.5.)

This bill prohibits a law enforcement officer from seeking to obtain information or statements from a person when both of the following apply:

- The person was 17 years of age or younger at the time the crime was committed and under 26 years of age at the time of custody.
- The person is in custody and the information or statements are sought by law enforcement officers working undercover or by individuals working in collaboration with, or acting as agents of, law enforcement.

This bill requires the court to consider, in adjudicating the admissibility of statements obtained in violation of the above prohibition, the effect of failure to comply with that prohibition and, additionally, to consider any willful violation in determining the credibility of a law enforcement officer.

This bill provides that its provisions only apply to a statement obtained on or after January 1, 2027.

COMMENTS

1. Need For This Bill

According to the author:

Young people are uniquely vulnerable during custodial interactions with law enforcement. Research and case experience consistently demonstrate that juveniles are more susceptible to pressure, manipulation, and deception, particularly when they are unaware they are speaking with someone acting on behalf of law enforcement. California has taken important steps to safeguard youth during interrogations, yet gaps remain when undercover tactics are used in custodial settings. Without clear statutory limits, courts are often left to determine after the fact whether statements were obtained in a manner consistent with constitutional protections. Recent appellate guidance underscores the risks associated with these practices. Clear rules help ensure that statements relied upon in court are both credible and lawfully obtained, while reducing costly litigation over admissibility.

AB 1905 strengthens protections for young people in custody by prohibiting law enforcement from using undercover officers or agents to obtain statements from individuals who were 17 years of age or younger at the time of the alleged offense and 26 or younger while in custody.

This bill focuses on addressing these vulnerabilities among young people in custody who are 26 years old and younger, reflecting the definition of youth in Penal Code § 1016.7 and neuroscientific research. By establishing clear guardrails around custodial questioning, the bill promotes fairness, reduces the risk of unreliable statements, and supports the integrity of the justice system.

2. Custodial Interrogations and *Miranda* Warnings

“*Miranda* warnings” are a series of admonitions that are typically given by police before interrogating a suspect of a crime. The purpose of *Miranda* warnings is to advise people who have been arrested of their constitutional right against self-incrimination. They are the product of the landmark Supreme Court decision *Miranda v. Arizona* (1966) 384 U.S. 436. In deciding that case, the Supreme Court imposed specific, constitutional requirements for the advice an officer must provide prior to engaging in custodial interrogation and held that statements taken without these warnings are inadmissible against the defendant in a criminal case. Specifically, the Court held that prior to any questioning, the suspect must be warned that he has a right to remain silent, that any statement made may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. (*Id.* at p. 444.)

In order for *Miranda* warnings to apply, an individual must be subjected to “custodial interrogation.” A suspect is “in custody” if a reasonable person in a similar situation would not feel free to end the interrogation and leave. (*Miranda, supra*, 384 U.S. at p. 444.) Custody does

not require a person to be at the police station, or in handcuffs, or in the back of a police car, but rather that the police have deprived the suspect of his or her freedom of action in some significant way. (*Ibid.*) An “interrogation” is “any words or actions on the part of officers (other than those normally attendant to arrest and custody) that the officer should know are reasonably likely to elicit an incriminating response from the suspect.” (*Rhode Island v. Innis* (1980) 446 U.S. 291, 301.) Such questioning can be in the form of an officer asking the suspect direct questions, or it can be indirect in the form of comments or actions by the officer that the officer should know are likely to produce an incriminating reply. (*Ibid.*)

3. *Illinois v. Perkins*

In an extension of the Court’s holding in *Miranda*, the U.S. Supreme Court ruled in *Illinois v. Perkins* (hereinafter “*Perkins*”) (1990) 496 U.S. 292, that while *Miranda* forbids coercion, it does not prohibit mere strategic deception by taking advantage of a suspect’s misplaced trust in someone thought to be a fellow inmate. (*Perkins*, 496 U.S. at p. 299.) In *Perkins*, two undercover agents posing as inmates were placed in defendant’s cell to investigate a murder. One agent asked defendant if he had ever killed anyone. Defendant then proceeded to describe the murder at length. The Court held *Miranda* warnings were not required because the discussion between the suspect and undercover agent did not implicate the concerns underlying *Miranda*, because there is no element of police coercion.

However, as part of a concurrence that formed the basis for the plurality judgment of the Court in *Perkins*, Justice Brennan focused on the fact that the defendant in *Perkins* had not invoked his right to remain silent or to an attorney before making statements to the undercover police officer – only that the undercover officer was not required to issue the warning before attempting to illicit a statement. (See *Perkins*, 496 U.S. at 300, fn. *; *Edwards v. Arizona* (1981) 451 U.S. 477, 482 (holding a waiver of rights must be knowing, intelligent, and voluntary).) However, if *Perkins* had invoked, the issue would be whether he waived that right.

In *People v. Orozco*, the court agreed that, even where the defendant invokes their right to counsel pursuant to *Miranda*, defendant’s statements to his girlfriend, who was acting as an agent of law enforcement, did not warrant exclusion because the statements were not made in a custodial setting and the element of coercion was not present. (*People v. Orozco* (2019) 32 Cal.App.5th 802, 814.) In that case, since the girlfriend was free to disclose any information the defendant shared, the fact that the police had contacted her about eliciting a statement from the defendant did not result in a *Miranda* violation.

In contrast to *Orozco*, however, the Court in *People v. Zapata* excluded the defendant’s statements which were elicited by sheriff deputies posing as inmates after *Zapata* invoked his right to counsel. (*People v. Zapata*, 118 Cal. App. 5th 529.) In *Zapata*, the critical fact was that the defendant did not waive his rights and was then questioned by sheriff deputies posing as inmates in jail. (*Zapata*, 118 Cal.App. 5th at pp. 541-542.) Therefore, *Zapata*’s *Miranda* rights were violated, and the statements were suppressed. However, the outcome may have been different if the police had used third parties to illicit a statement rather than doing it themselves.

Perkins operations, while useful in obtaining incriminating statements, can also constitute a violation of defendant’s rights against self-incrimination. This is especially true for young people who may feel compelled to “brag” or make incriminating statements even when they did not commit the crime simply to impress the listener.

4. Specific Concerns Interrogating Youth

A growing body of research indicates that adolescents are less capable of understanding their constitutional rights than their adult counterparts, and also that they are more prone to falsely confessing to a crime they did not commit. (See Luna, *Juvenile False Confessions: Juvenile Psychology, Police Interrogation Tactics, And Prosecutorial Discretion* (2018) 18 Nev. L.J. 291, <<https://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=1733&context=nlj>>.) The research suggests that “[b]ecause adolescents are more impulsive, are easily influenced by others (especially by figures of authority), are more sensitive to rewards (especially immediate rewards), and are less able to weigh in on the long-term consequences of their actions, they become more receptive to coercion.” (*Id.* at p. 297, citing various scientific journals.) The context of custodial interrogation is believed to exacerbate these risks. In fact, prior research has shown that 35 percent of proven false confessions were obtained from suspects under the age of 18. (Drizin & Leo, *The Problem of False Confessions in the Post-DNA World* (2004) 82 N. C. L. Rev. 891, pp. 906-907, available at <<https://scholarship.law.unc.edu/nclr/vol82/iss3/3/>>.)

In recognition of the susceptibility of youth to making false confessions, the Legislature enacted SB 395 (Lara), Chapter 681, Statutes of 2017, which required minors under the age of 16 to consult with an attorney prior to any custodial interrogation by a police officer. SB 203 (Bradford), Chapter 335, Statutes of 2020, expanded the protections from custodial interrogation to 16 and 17 year olds. Most recently, AB 2644 (Holden), Chapter 289, Statutes of 2022, prohibited law enforcement officers from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics during a custodial interrogation of a person under 18. As originally introduced, AB 2644 applied to individuals up to 25 years old.

The proponents of this bill assert that individuals in custody who are up to 26 should also receive some protections from interrogation or other law enforcement tactics to gather information while in custody because research has found that cognitive development continues into the mid-20s. It is well-documented that the prefrontal cortex—the part of the brain responsible for executive functions such as focus, long-term planning, and impulse control—matures last, until after age 25. (See Ellen Barlow, *Under the Hood of the Adolescent Brain* (Oct. 17, 2014), available at <<https://hms.harvard.edu/news/under-hood-adolescent-brain>>; Johnson, et al., *Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy*, Journal of Adolescent Health (Sept. 2009), available at <<https://pmc.ncbi.nlm.nih.gov/articles/PMC2892678/>>.) In large part due to the research on brain development, Youth Offender Parole eligibility was expanded in 2017 to include individuals who committed their crime prior to age 26. (AB 1308 (Stone), Chapter 675, Statutes of 2017.) In the context of juvenile justice, young adults up to age 25 are considered “transitional age youth.” (See Pen. Code, § 1000.7, which established a deferred entry of judgment pilot program allowing certain defendants who committed their crime between 18-24 to be housed in a juvenile facility and receive supportive services in lieu of serving time in a county jail.)

5. Effect of This Bill

This bill prohibits a law enforcement officer from seeking to obtain information or statements from a person when both of the following apply:

- The person was 17 years of age or younger at the time the crime was committed and under 26 years of age at the time of custody.

- The person is in custody and the information or statements are sought by law enforcement officers working undercover or by individuals working in collaboration with, or acting as agents of, law enforcement.

This bill additionally requires the court to consider, in adjudicating the admissibility of statements obtained in violation of the prohibition, the effect of failure to comply with that prohibition and, additionally, to consider any willful violation in determining the credibility of a law enforcement officer.

The provisions only apply to a statement obtained on or after January 1, 2027.

6. Argument in Support

The California Innocence Coalition, one of the bill's co-sponsors, writes:

California has long recognized that youth differ from adults. In recent years, in recognition of the unique vulnerabilities of young people, the courts and this Legislature have sought to ensure young people are afforded counsel prior to any custodial interrogation (SB 395 (2017) and SB 203 (2020).) Moreover, law enforcement is prohibited from using deceptive or coercive tactics when interrogating young people (AB 2644 (2024)).

Case law has also recognized the vulnerabilities of youth to police coercion tactics. In 2015, the Court of Appeal, in *In re Elias V*, 237 Cal.App.4th 568, held that statements obtained from a 13 year old boy were involuntary based on coercive police conduct. The court noted the danger of false confessions is real, and is the leading cause of error in wrongful convictions-- from 14-25 percent, and a disproportionate number of false confession cases involve youth: An extensive body of literature demonstrates that juveniles are "more suggestible than adults, may easily be influenced by questioning from authority figures, and may provide inaccurate reports when questioned in a leading, repeated and suggestive fashion." (*In re Elias V.*, supra at p. 573 (citations omitted)).

Unfortunately, a gap in current Miranda protections has allowed investigative practices to develop that may undermine the safeguards intended for vulnerable youth. Increasingly, law enforcement agencies have used undercover informants placed in detention settings to speak with young people outside the formal interrogation process. Because these interactions occur through third parties rather than officers themselves, they can fall outside existing legislative limits on deception and manipulation.

In some cases, young people are housed with older individuals who are cooperating with law enforcement and encouraged to engage them in conversation about the alleged offense. These informants may use a variety of tactics to elicit statements, and the interactions are not always recorded. As a result, youth may make statements without the protections that would typically apply during a formal interrogation.

A.B. 1905 is carefully tailored to ensure vulnerable youth, who have been recognized as the most susceptible to deceptive or coercive techniques, and against whom these tactics are most likely to encourage false confessions are afforded protections against manipulative undercover operations. Law enforcement should not be using proxies against youth to thwart the constitutional protections of *Miranda* by utilizing the very tactics the Legislature has prohibited to reduce the likelihood of coerced, false confessions. This bill ensures the continued protection of youth from coercion and deception, helps ensure fairness, and protects against false confessions.

7. Argument in Opposition

According to the California State Sheriffs' Association:

The materials offered in support of this bill reference “young people” and the assertion that they are “uniquely vulnerable during custodial interactions with law enforcement.” The problem is that AB 1905’s reach is not limited to minors. Rather, it applies to any person who was under 18 years of age at the time of the crime and under 26 years of age at the time of custody. This means that not only does this bill apply to an interrogation of a person who just turned 18 years old and who, only a few days prior, had been 17 years old at the time of the crime, but also, for example, an interrogation of a 25-year-old person relative to an eight-year-old crime. In either case, the bill attempts to limit law enforcement from seeking valuable evidence from adults in custody based on the notion that “young people” deserve a higher level of protection when it comes to interrogations.

Further, the recent appellate case cited in the bill’s fact sheet (*People v. Zapata*) reads more as a *Miranda* case than a *Perkins* case without any indication that the defendant was a juvenile at the time of the commission of the crime or resulting interrogation. While *Zapata* involved a defendant being the subject of a *Perkins* operation (where law enforcement officers or inmates seek to obtain information while acting as inmates), the main issue noted by the court is that *Zapata*’s admission of guilt was obtained after he had invoked his *Miranda* rights. The problem is this bill uses *Zapata* as justification for its passage despite the fact that *Zapata* does not appear to have been a juvenile at the time of interrogation and that further regulation of *Perkins* operations is not necessarily the main motivator of the court’s ruling.

Additionally, as it relates to actual juveniles, the Legislature enacted AB 2644 in 2022, which prohibits a law enforcement officer from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics during a custodial interrogation of a person 17 years of age or younger. These protections already exist and further limitations on *Perkins* operations do not seem justified.

-- END --