

7082

I N S E N A T E

March 23, 2016

Introduced by Sen. AVELLA -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act, in relation to video recording of custodial interrogations of juveniles in juvenile delinquency proceedings in family court

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 8 of section 305.2 of the family court act, as
2 amended by chapter 398 of the laws of 1983, is amended and a new subdi-
3 vision 5-a is added to read as follows:
4 5-A. WHERE A RESPONDENT IS SUBJECT TO CUSTODIAL INTERROGATION BY A
5 POLICE OR PEACE OFFICER AT A FACILITY DESIGNATED BY THE CHIEF ADMINIS-
6 TRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF JUVE-
7 NILES PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, THE ENTIRE CUSTODIAL
8 INTERROGATION, INCLUDING THE GIVING OF ANY REQUIRED NOTICE TO THE
9 RESPONDENT AS TO HIS OR HER RIGHTS AND RESPONDENT'S WAIVER OF ANY
10 RIGHTS, SHALL BE VIDEO RECORDED IN ACCORDANCE WITH STANDARDS ESTABLISHED
11 BY RULE OF THE DIVISION OF CRIMINAL JUSTICE SERVICES. THE INTERROGATION
12 SHALL BE RECORDED IN A MANNER SUCH THAT THE PERSONS IN THE RECORDING ARE
13 IDENTIFIABLE AND THE SPEECH IS INTELLIGIBLE. A COPY OF THE RECORDING
14 SHALL BE SUBJECT TO DISCOVERY PURSUANT TO SECTION 331.2 OF THIS ARTICLE.
15 8. In determining the suitability of questioning and determining the
16 reasonable period of time for questioning such a child, the child's age,
17 the presence or absence of his OR HER parents or other persons legally
18 responsible for his OR HER care [and], notification pursuant to subdivi-
19 sion three AND, WHERE THE CHILD HAS BEEN INTERROGATED AT A FACILITY
20 DESIGNATED BY THE CHIEF ADMINISTRATOR OF THE COURTS AS A SUITABLE PLACE
21 FOR THE QUESTIONING OF JUVENILES, WHETHER THE INTERROGATION WAS IN
22 COMPLIANCE WITH THE VIDEO-RECORDING AND DISCLOSURE REQUIREMENTS OF
23 SUBDIVISION FIVE-A OF THIS SECTION shall be included among relevant
24 considerations.
25 S 2. Subdivision 3 of section 344.2 of the family court act is renum-
26 bered subdivision 4 and a new subdivision 3 is added to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD14130-01-6

1 3. WHERE A RESPONDENT IS SUBJECT TO CUSTODIAL INTERROGATION BY A
2 POLICE OR PEACE OFFICER AT A FACILITY DESIGNATED BY THE CHIEF ADMINIS-
3 TRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF JUVE-
4 NILES PURSUANT TO SUBDIVISION FOUR OF SECTION 305.2 OF THIS ARTICLE, THE
5 ENTIRE CUSTODIAL INTERROGATION, INCLUDING THE GIVING OF ANY REQUIRED
6 NOTICE TO THE RESPONDENT AS TO HIS OR HER RIGHTS AND RESPONDENT'S WAIVER
7 OF ANY RIGHTS, SHALL BE VIDEO RECORDED IN ACCORDANCE WITH STANDARDS
8 ESTABLISHED BY RULE OF THE DIVISION OF CRIMINAL JUSTICE SERVICE. THE
9 INTERROGATION SHALL BE RECORDED IN A MANNER SUCH THAT THE PERSONS IN THE
10 RECORDING ARE IDENTIFIABLE AND THE SPEECH IS INTELLIGIBLE. A COPY OF THE
11 RECORDING SHALL BE SUBJECT TO DISCOVERY PURSUANT TO SECTION 331.2 OF
12 THIS ARTICLE.

13 S 3. This act shall take effect on the first of November in the year
14 next succeeding the year in which this act shall have become a law and
15 shall apply only to confessions, admissions or other statements made on
16 or after such effective date; provided, however, that effective imme-
17 diately, the addition, amendment and/or repeal of any rule or regulation
18 necessary for the implementation of this act on its effective date is
19 authorized and directed to be made and completed by the division of
20 criminal justice services on or before such effective date.