

STATE OF NEW YORK

1193

2021-2022 Regular Sessions

IN SENATE

January 8, 2021

Introduced by Sens. GIANARIS, BRESLIN, COMRIE, HOYLMAN, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law and the family court act, in relation to requiring law enforcement authorities to advise persons under the age of eighteen years of certain rights when such persons are questioned while in custody

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 60.45 of the criminal procedure law is amended by adding a new subdivision 4 to read as follows:

4. A confession, admission or other statement is "involuntarily made" by a defendant, who is under eighteen years of age, when it is obtained from him or her while he or she is subject to a custodial interrogation by a public servant engaged in law enforcement activity, prior to such public servant:

(a) continuously reading, in its entirety, to the defendant, without stopping for purposes of a response from the defendant or verifying comprehension, the following statement:

"You have the right to remain silent. That means, you do not have to say anything. Anything you say can be used against you in court. You have the right to get help from a lawyer. If you cannot pay a lawyer, the court will get you one for free. You have the right to stop this interview at any time."; and

(b) after reading the statement required by paragraph (a) of this subdivision, asking the defendant the following questions and waiting for the defendant's response thereto for each question:

"Do you want to talk to me?

Do you want to have a lawyer?".

§ 2. Subdivision 4 of section 344.2 of the family court act, as renumbered by section 2 of part VVV of chapter 59 of the laws of 2017, is

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

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renumbered subdivision 5 and a new subdivision 4 is added to read as follows:

4. A confession, admission or other statement is "involuntarily made" by a respondent when it is obtained from him or her while he or she is subject to a custodial interrogation by a public servant engaged in law enforcement activity, prior to such public servant:

(a) continuously reading, in its entirety, to the respondent, without stopping for purposes of a response from the respondent or verifying comprehension, the following statement:

"You have the right to remain silent. That means, you do not have to say anything. Anything you say can be used against you in court. You have the right to get help from a lawyer. If you cannot pay a lawyer, the court will get you one for free. You have the right to stop this interview at any time."; and

(b) after reading the statement required by paragraph (a) of this subdivision, asking the respondent the following questions and waiting for the respondent's response thereto for each question:

"Do you want to talk to me?"

"Do you want to have a lawyer?".

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.