S T A T E O F N E W Y O R K

8496

2009-2010 Regular Sessions

I N A S S E M B L Y

May 21, 2009

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act, in relation to the custodial interrogation of a child

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

Section 1. Subdivisions 5, 6, 7, and 8 of section 305.2 of the family court act are renumbered subdivisions 6, 7, 8, and 9 and a new subdivision 5 is added to read as follows:

5. ANY CUSTODIAL INTERROGATION OF A CHILD AT A FACILITY DESIGNATED BY THE CHIEF ADMINISTRATOR OF THE COURTS AS A SUITABLE PLACE FOR THE QUESTIONING OF CHILDREN SHALL BE RECORDED AUDIOVISUALLY IN ITS ENTIRETY, INCLUDING ANY NOTIFICATION AND WAIVER OF RIGHTS REQUIRED BY SUBDIVISION EIGHT OF THIS SECTION OR THE CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OF THE STATE OF NEW YORK, AND IN A MANNER SUCH THAT THE PERSONS DEPICTED IN THE RECORDING ARE IDENTIFIABLE AND THE SPEECH RECORDED IS INTELLIGIBLE. A STATEMENT BY A CHILD DURING SUCH CUSTODIAL INTERROGATION MAY BE ADMITTED IN ANY PROCEEDING AS DIRECT EVIDENCE AGAINST THE CHILD ONLY WHEN THE AUDIOVISUAL RECORDING OF THE ENTIRE CUSTODIAL INTERROGATION DURING WHICH THE STATEMENT WAS MADE, OR A COMPLETE COPY OF THAT RECORDING, HAS BEEN PROVIDED TO THE CHILD AND HIS OR HER PARENT OR GUARDIAN, IF PRESENT, UNLESS THE AUDIOVISUAL RECORDING AND ALL COPIES THEREOF ARE UNAVAILABLE DUE TO EXTRAORDINARY CIRCUMSTANCES BEYOND THE CONTROL OF THE PRESENTMENT AGENCY AND THE LAW ENFORCEMENT AUTHORITIES WHO CONDUCTED THE CUSTODIAL INTERROGATION.

S 2. This act shall take effect immediately.

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

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