STATE OF NEW YORK

10855

IN ASSEMBLY

May 24, 2018

Introduced by M. of A. LENTOL -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to notification to, and engagement of, parents in proceedings involving sixteen and seventeen year old defendants in youth parts in superior courts

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

Section 1. Subdivision 7 of section 120.90 of the criminal procedure law, as amended by section 16 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

7. Upon arresting a juvenile offender or adolescent offender, the police officer shall immediately notify the parent or other person legally responsible for his **or her** care or the person with whom he **or she** is domiciled, that the juvenile offender or adolescent offender has been arrested, [**and**] the location of the facility where he **or she** is being detained **or questioned and the location of the court where he or she will be arraigned or appear, as well as the date and approximate time if known**.

§ 2. The opening paragraph of subdivision 6 of section 140.20 of the criminal procedure law, as amended by section 20 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

Upon arresting a juvenile offender or a person sixteen or commencing October first, two thousand nineteen, seventeen years of age without a warrant, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained **or questioned and the location of the court where he or she will be arraigned or appear, as well as the date and approximate time if known**. If the officer determines that it is necessary to question a juvenile offender or such person, the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile or such

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

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person, to his or her residence and there question him or her for a reasonable period of time. A juvenile or such person shall not be questioned pursuant to this section unless he or she and a person required to be notified pursuant to this subdivision, if present, have been advised:

§ 3. The opening paragraph of subdivision 5 of section 140.27 of the criminal procedure law, as amended by section 23 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

Upon arresting a juvenile offender or a person sixteen or commencing October first, two thousand nineteen, seventeen years of age without a warrant, the peace officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained **or questioned and the location of the court where he or she will be arraigned or appear, as well as the date and approximate time if known**. If the officer determines that it is necessary to question a juvenile offender or such person, the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of a juvenile offender or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile offender or such person shall not be questioned pursuant to this section unless the juvenile offender or such person and a person required to be notified pursuant to this subdivision, if present, have been advised:

§ 4. The opening paragraph of subdivision 5 of section 140.40 of the criminal procedure law, as amended by section 24 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

If a police officer takes an arrested juvenile offender or a person sixteen or commencing October first, two [~~thosuand~~] **thousand** nineteen, seventeen years of age into custody, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained **or questioned and the location of the court where he or she will be arraigned or appear, as well as the date and approximate time if known**. If the officer determines that it is necessary to question a juvenile offender or such person the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile offender or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile offender or such person shall not be questioned pursuant to this section unless he or she and a person required to be notified pursuant to this subdivision, if present, have been advised:

§ 5. Subdivision 1 of section 722.00 of the criminal procedure law, as added by section 1-a of part WWW of chapter 59 of the laws of 2017, is amended to as follows:

1. All juvenile offenders and adolescent offenders shall be notified of the availability of services through the local probation department. Such services shall include the ability of the probation department to conduct a risk and needs assessment, utilizing a validated risk assessment tool, in order to help determine suitable and individualized programming and referrals. Participation in such risk and needs assess-

ment shall be voluntary and the adolescent offender or juvenile offender may be accompanied by counsel during any such assessment. **The local probation department shall make reasonable and substantial efforts to secure the participation of the parent or other person responsible for the care of the juvenile offender or adolescent offender in the risk and needs assessment but shall not be prevented from proceeding by the absence of such parent or person.** Based upon the assessment findings, the probation department shall refer the adolescent offender or juvenile offender to available and appropriate services.

§ 6. Section 722.10 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. In all proceedings under this article, the parent or other person responsible for the care of the juvenile offender or adolescent offender shall be present. However, the court shall not be prevented from proceeding by the absence of such parent or person if reasonable and substantial effort has been made to notify such parent or other person.

§ 7. This act shall take effect immediately; provided, however, sections one, two, three and four of this act shall take effect on the same date and in the same manner as sections 16, 20, 23 and 24 of part WWW of chapter 59 of the laws of 2017, respectively, take effect and sections five and six of this act shall take effect on the same date and in the same manner as section 1-a of part WWW of chapter 59 of the laws of 2017, takes effect.