

# STATE OF NEW YORK

5154

2017-2018 Regular Sessions

## IN SENATE

March 9, 2017

Introduced by Sens. MONTGOMERY, COMRIE, KRUEGER -- 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 social services law, in relation to ensuring that parents and guardians of youth up to age 19 are notified when their child is arrested or issued an appearance ticket

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

1 Section 1. This act shall be known and may be cited as the "family  
2 notification and protection act".

3 § 2. Subdivision 7 of section 120.90 of the criminal procedure law, as  
4 amended by chapter 424 of the laws of 1998, is amended to read as  
5 follows:

6 7. (a) Upon arresting a juvenile offender or youth as defined in  
7 subdivision one of section 720.10 of this chapter, the police officer  
8 shall immediately notify the parent or other person legally responsible  
9 for his or her care or the person with whom he or she is domiciled, that  
10 the juvenile offender or youth has been arrested, and the location of  
11 the facility where he or she is being detained, provided that the police  
12 officer need not notify the parent or other person legally responsible  
13 for such youth's care or the person with whom he or she is domiciled  
14 when such youth is not also a juvenile offender and the notification of  
15 a parent or other person would endanger the health or safety of such  
16 youth.

17 (b)(i) After making every reasonable effort to give notice to the  
18 parent, or other person legally responsible for his or her care or the  
19 person with whom he or she is domiciled, the officer shall issue and  
20 serve an appearance ticket upon the arrested person and release him or  
21 her to the custody of an adult family member or an unrelated adult age  
22 twenty-five or over; or

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

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1 (ii) After making every reasonable effort to locate an adult family  
2 member or an unrelated adult age twenty-five or over, if there is no one  
3 to whom the officer can release the arrested person, the officer shall  
4 release the arrested person upon issuance of an appearance ticket and  
5 provide the arrested person with a ride in an official police vehicle to  
6 his or her place of residence, at the request of the arrested person,  
7 without unnecessary delay. The officer must inform the youth that he or  
8 she may request a ride home; or

9 (iii) If the arrested person is less than nineteen years old, the  
10 officer may take the youth, if it appears that such youth is a sexually  
11 exploited child as defined in paragraph (a), (b), (c) or (d) of subdivi-  
12 sion one of section four hundred forty-seven-a of the social services  
13 law, to an available short-term safe house, but only if the youth  
14 consents to be taken.

15 § 3. Subdivisions 1, 2 and 6 of section 140.20 of the criminal proce-  
16 dure law, subdivision 1 as amended by chapter 549 of the laws of 1987,  
17 paragraphs (a) and (b) of subdivision 1 as amended by chapter 324 of the  
18 laws of 1988, paragraph (c) of subdivision 1 as separately amended by  
19 chapter 382 of the laws of 1987, paragraph (d) of subdivision 1 as  
20 amended and paragraph (e) as added by chapter 492 of the laws of 2016,  
21 subdivision 2 as amended by chapter 550 of the laws of 1987 and subdivi-  
22 sion 6 as added by chapter 411 of the laws of 1979, are amended to read  
23 as follows:

24 1. Upon arresting a person without a warrant, a police officer, after  
25 performing without unnecessary delay all recording, fingerprinting and  
26 other preliminary police duties required in the particular case, must  
27 except as otherwise provided in this section, without unnecessary delay  
28 bring the arrested person or cause him to be brought before a local  
29 criminal court and file therewith an appropriate accusatory instrument  
30 charging him with the offense or offenses in question. The arrested  
31 person must be brought to the particular local criminal court, or to one  
32 of them if there be more than one, designated in section 100.55 as an  
33 appropriate court for commencement of the particular action; except  
34 that:

35 (a) If the arrest is for an offense other than a class A, B, C or D  
36 felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19  
37 or 215.56 of the penal law committed in a town, but not in a village  
38 thereof having a village court, and the town court of such town is not  
39 available at the time, the arrested person may be brought before the  
40 local criminal court of any village within such town or, any adjoining  
41 town, village embraced in whole or in part by such adjoining town, or  
42 city of the same county; and

43 (b) If the arrest is for an offense other than a class A, B, C or D  
44 felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19  
45 or 215.56 of the penal law committed in a village having a village court  
46 and such court is not available at the time, the arrested person may be  
47 brought before the town court of the town embracing such village or any  
48 other village court within such town, or, if such town or village court  
49 is not available either, before the local criminal court of any adjoin-  
50 ing town, village embraced in whole or in part by such adjoining town,  
51 or city of the same county; and

52 (c) If the arrest is for an offense committed in a city, and the city  
53 court thereof is not available at the time, the arrested person may be  
54 brought before the local criminal court of any adjoining town or  
55 village, or village court embraced by an adjoining town, within the same  
56 county as such city; and

1 (d) If the arrest is for a traffic infraction or for a misdemeanor  
2 relating to traffic, the police officer may, instead of bringing the  
3 arrested person before the local criminal court of the political subdi-  
4 vision or locality in which the offense was allegedly committed, bring  
5 him or her before the local criminal court of the same county nearest  
6 available by highway travel to the point of arrest; and

7 (e) If the arrested person is at least sixteen years old and less than  
8 nineteen years old, and if the arrest is for a non-violent class B, C,  
9 or D felony (except 125.12, 263.05, 263.10, 263.15, 263.30, or 470.23)  
10 or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or  
11 215.56 of the penal law, and the local criminal court is not available:

12 (i) the officer shall release the arrested person to the custody of  
13 his or her parents, or other person legally responsible for his or her  
14 care, or the person with whom he or she is domiciled upon the issuance  
15 of an appearance ticket provided that the officer need not notify the  
16 parent or other person legally responsible for the arrested person's  
17 care or the person with whom he or she is domiciled when the notifica-  
18 tion of a parent or other person would endanger the health or safety of  
19 the arrested person; or

20 (ii) after making every reasonable effort to give notice to the  
21 parent, or other person legally responsible for his or her care or the  
22 person with whom he or she is domiciled, the officer shall issue and  
23 serve an appearance ticket upon the arrested person and release him or  
24 her to the custody of an adult family member or an unrelated adult age  
25 twenty-five or over; or

26 (iii) after making every reasonable effort to locate an adult family  
27 member or an unrelated adult age twenty-five or over, if there is no one  
28 to whom the officer can release the arrested person, the officer shall  
29 release the arrested person upon issuance of an appearance ticket and  
30 provide the arrested person with a ride in an official police vehicle to  
31 his or her place of residence, at the request of the arrested person,  
32 without unnecessary delay. The officer must inform the youth that he or  
33 she may request a ride home; and

34 (f) If the arrested person is less than nineteen years old, the offi-  
35 cer may take the youth, if it appears that such youth is a sexually  
36 exploited child as defined in paragraph (a), (b), (c) or (d) of subdivi-  
37 sion one of section four hundred forty-seven-a of the social services  
38 law, to an available short-term safe house, but only if the youth  
39 consents to be taken; and

40 (g) If the arrested person is at least sixteen years old and less than  
41 nineteen years old and if the arrest is for an offense other than a  
42 class A, B, C or D felony or a violation of section 130.25, 130.40,  
43 205.10, 205.17, 205.19 or 215.56 of the penal law, the officer shall  
44 issue and serve an appearance ticket, as prescribed in subdivision four  
45 of section 150.20 and release him or her from custody, as prescribed in  
46 paragraph (e) of this subdivision; and

47 [~~e~~] (h) Notwithstanding any other provision of this section, where a  
48 local criminal court in the county in which the defendant is arrested is  
49 operating an off-hours arraignment part designated in accordance with  
50 paragraph (w) of subdivision one of section two hundred twelve of the  
51 judiciary law at the time of defendant's arrest, the arrested person may  
52 be brought before such local criminal court.

53 2. If the arrest is for an offense other than a class A, B, C or D  
54 felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19  
55 or 215.56 of the penal law, the arrested person need not be brought

1 before a local criminal court as provided in subdivision one, and the  
2 procedure may instead be as follows:

3 (a) A police officer may issue and serve an appearance ticket upon the  
4 arrested person and release him from custody, as prescribed in subdivi-  
5 sion two of section 150.20; or

6 (b) The desk officer in charge at a police station, county jail or  
7 police headquarters, or any of his superior officers, may, in such place  
8 fix pre-arraignment bail and, upon deposit thereof, issue and serve an  
9 appearance ticket upon the arrested person and release him from custody,  
10 as prescribed in section 150.30.

11 If the arrested person is older than sixteen years old but less than  
12 nineteen years old, the officer shall follow the procedure as prescribed  
13 in paragraph (h) of subdivision one of this section.

14 6. Upon arresting a juvenile offender or youth as defined in subdivi-  
15 sion one of section 720.10 of this chapter without a warrant, the police  
16 officer shall immediately notify the parent or other person legally  
17 responsible for his or her care or the person with whom he or she is  
18 domiciled, that the juvenile offender or youth has been arrested, and  
19 the location of the facility where he is being detained, provided that  
20 the police officer need not notify the parent or other person legally  
21 responsible for such youth's care or the person with whom he or she is  
22 domiciled when such youth is not also a juvenile offender and the  
23 notification of a parent or other person would endanger the health or  
24 safety of such youth, however the police officer must make every reason-  
25 able effort to contact an adult family member or an unrelated adult over  
26 the age of twenty-five as prescribed in paragraph (f) of subdivision one  
27 of this section.

28 § 4. Section 150.20 of the criminal procedure law is amended by adding  
29 a new subdivision 4 to read as follows:

30 4. Upon issuing to and serving an appearance ticket as defined in  
31 subdivision one of section 150.10 of this article upon a youth as  
32 defined in subdivision one of section 720.10 of this chapter, the police  
33 officer shall notify the parent or other person legally responsible for  
34 his or her care or the person with whom he or she is domiciled or some  
35 other adult as provided for in paragraph (f) of subdivision one of  
36 section 140.20 of this chapter, that such youth has been served with an  
37 appearance ticket, the time set forth in such appearance ticket for the  
38 youth's appearance before a criminal court and the offense of which he  
39 or she is charged, provided that the police officer need not notify the  
40 parent or other person legally responsible for such youth's care or the  
41 person with whom he or she is domiciled when such youth is not also a  
42 juvenile offender and the notification of a parent or other person would  
43 endanger the health or safety of such youth.

44 § 5. Subdivisions 1 and 2 of section 447-a of the social services law,  
45 subdivision 1 as amended by section 1 of part G of chapter 58 of the  
46 laws of 2010, subdivision 2 as added by chapter 569 of the laws of 2008,  
47 are amended to read as follows:

48 1. The term "sexually exploited child" means any person under the age  
49 of [~~eighteen~~] nineteen who has been subject to sexual exploitation  
50 because he or she:

51 (a) is the victim of the crime of sex trafficking as defined in  
52 section 230.34 of the penal law;

53 (b) engages in any act as defined in section 230.00 of the penal law;

54 (c) is a victim of the crime of compelling prostitution as defined in  
55 section 230.33 of the penal law;

1 (d) engages in acts or conduct described in article two hundred  
2 sixty-three or section 240.37 of the penal law.

3 2. The term "short-term safe house" means a residential facility oper-  
4 ated by an authorized agency as defined in subdivision ten of section  
5 three hundred seventy-one of this article including a residential facil-  
6 ity operating as part of an approved runaway program as defined in  
7 subdivision four of section five hundred thirty-two-a of the executive  
8 law or a not-for-profit agency with experience in providing services to  
9 sexually exploited youth and approved in accordance with the regulations  
10 of the office of children and family services that provides emergency  
11 shelter, services and care to sexually exploited children including  
12 food, shelter, clothing, medical care, counseling and appropriate crisis  
13 intervention services at the time they are taken into custody by law  
14 enforcement and for the duration of any legal proceeding or proceedings  
15 in which they are either the complaining witness or the subject child.  
16 The short-term safe house shall also be available at the point in time  
17 that a child under the age of [~~eighteen~~ nineteen] has first come into  
18 the custody of juvenile detention officials, law enforcement, local  
19 jails or the local commissioner of social services or is residing with  
20 the local runaway and homeless youth authority.

21 § 6. This act shall take effect on the first of November next succeed-  
22 ing the date on which it shall have become a law.