

# STATE OF NEW YORK

4764--A

2017-2018 Regular Sessions

## IN SENATE

February 27, 2017

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 -- recommitted to the Committee on Children and Families in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to video recording of 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 subdivi-  
3 sion 5-a is added to read as follows:

4 5-a. Where a child is subject to interrogation at a facility desig-  
5 nated by the chief administrator of the courts as a suitable place for  
6 the questioning of juveniles pursuant to subdivision four of this  
7 section, the entire interrogation, including the giving of any required  
8 notice to the child as to his or her rights and the child's waiver of  
9 any rights, shall be video recorded in accordance with standards estab-  
10 lished by rule of the division of criminal justice services pursuant to  
11 paragraph (e) of subdivision three of section 60.45 of the criminal  
12 procedure law. The interrogation shall be recorded in a manner such that  
13 the persons in the recording are identifiable and the speech is intelli-  
14 gible. A copy of the recording shall be subject to discovery pursuant to  
15 section 331.2 of this article.

16 8. In determining the suitability of questioning and determining the  
17 reasonable period of time for questioning such a child, the child's age,  
18 the presence or absence of his or her parents or other persons legally  
19 responsible for his or her care [~~and~~], notification pursuant to subdivi-  
20 sion three and, where the child has been interrogated at a facility

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

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1 designated by the chief administrator of the courts as a suitable place  
2 for the questioning of juveniles, whether the interrogation was in  
3 compliance with the video-recording and disclosure requirements of  
4 subdivision five-a of this section shall be included among relevant  
5 considerations.

6 § 2. Subdivision 3 of section 344.2 of the family court act, as added  
7 by section 2 of part VVV of chapter 59 of the laws of 2017, is amended  
8 to read as follows:

9 3. Where a respondent is subject to custodial interrogation by a  
10 public servant at a facility specified in subdivision four of section  
11 305.2 of this article, the entire custodial interrogation, including the  
12 giving of any required advice of the rights of the individual being  
13 questioned, and the waiver of any rights by the individual, shall be  
14 recorded and governed in accordance with [~~the provisions of paragraphs~~  
15 ~~(a), (b), (c), (d) and~~] standards established by rule of the division of  
16 criminal justice services pursuant to paragraph (e) of subdivision three  
17 of section 60.45 of the criminal procedure law. The interrogation shall  
18 be recorded in a manner such that the persons in the recording are iden-  
19 tifiable and the speech is intelligible. A copy of the recording shall  
20 be subject to discovery pursuant to section 331.2 of this article.

21 § 3. This act shall take effect on the first of November in the year  
22 next succeeding the year in which this act shall have become a law and  
23 shall apply only to confessions, admissions or other statements made on  
24 or after such effective date; provided, however, that if section 2 of  
25 part VVV of chapter 59 of the laws of 2017 shall not have taken effect  
26 on or before such date then section two of this act shall take effect on  
27 the same date and in the same manner as such section of part VVV of  
28 chapter 59 of the laws of 2017, takes effect. Effective immediately,  
29 the addition, amendment and/or repeal of any rule or regulation neces-  
30 sary for the implementation of this act on its effective date are  
31 authorized to be made by the division of criminal justice services on or  
32 before such effective date.