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:

Section 1. Subdivision 8 of section 305.2 of the family court act, as amended by chapter 398 of the laws of 1983, is amended and a new subdivision 5-a is added to read as follows:

5-a. Where a child is subject to interrogation at a facility designated by the chief administrator of the courts as a suitable place for the questioning of juveniles pursuant to subdivision four of this section, the entire interrogation, including the giving of any required notice to the child as to his or her rights and the child's waiver of any rights, shall be video recorded in accordance with standards established by rule of the division of criminal justice services pursuant to paragraph (e) of subdivision three of section 60.45 of the criminal procedure law. The interrogation shall be recorded in a manner such that the persons in the recording are identifiable and the speech is intelligible. A copy of the recording shall be subject to discovery pursuant to section 331.2 of this article.

8. In determining the suitability of questioning and determining the reasonable period of time for questioning such a child, the child's age, the presence or absence of his **or her** parents or other persons legally responsible for his **or her** care [~~and~~], notification pursuant to subdivision 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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designated by the chief administrator of the courts as a suitable place for the questioning of juveniles, whether the interrogation was in compliance with the video-recording and disclosure requirements of subdivision five-a of this section shall be included among relevant considerations.

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

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

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