

STATE OF NEW YORK

8260

IN SENATE

April 24, 2018

Introduced by Sen. LANZA -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed 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:

1 Section 1. Subdivision 7 of section 120.90 of the criminal procedure
2 law, as amended by section 16 of part WWW of chapter 59 of the laws of
3 2017, is amended to read as follows:

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

12 § 2. The opening paragraph of subdivision 6 of section 140.20 of the
13 criminal procedure law, as amended by section 20 of part WWW of chapter
14 59 of the laws of 2017, is amended to read as follows:

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

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

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1 other person legally responsible for the care of the juvenile or such
2 person, to his or her residence and there question him or her for a
3 reasonable period of time. A juvenile or such person shall not be ques-
4 tioned pursuant to this section unless he or she and a person required
5 to be notified pursuant to this subdivision, if present, have been
6 advised:

7 § 3. The opening paragraph of subdivision 5 of section 140.27 of the
8 criminal procedure law, as amended by section 23 of part WWW of chapter
9 59 of the laws of 2017, is amended to read as follows:

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

28 § 4. The opening paragraph of subdivision 5 of section 140.40 of the
29 criminal procedure law, as amended by section 24 of part WWW of chapter
30 59 of the laws of 2017, is amended to read as follows:

31 If a police officer takes an arrested juvenile offender or a person
32 sixteen or commencing October first, two [~~thousand~~] thousand nineteen,
33 seventeen years of age into custody, the police officer shall immediate-
34 ly notify the parent or other person legally responsible for his or her
35 care or the person with whom he or she is domiciled, that such offender
36 or person has been arrested, and the location of the facility where he
37 or she is being detained or questioned and the location of the court
38 where he or she will be arraigned or appear, as well as the date and
39 approximate time if known. If the officer determines that it is neces-
40 sary to question a juvenile offender or such person the officer must
41 take him or her to a facility designated by the chief administrator of
42 the courts as a suitable place for the questioning of children or, upon
43 the consent of a parent or other person legally responsible for the care
44 of the juvenile offender or such person, to his or her residence and
45 there question him or her for a reasonable period of time. A juvenile
46 offender or such person shall not be questioned pursuant to this section
47 unless he or she and a person required to be notified pursuant to this
48 subdivision, if present, have been advised:

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

52 1. All juvenile offenders and adolescent offenders shall be notified
53 of the availability of services through the local probation department.
54 Such services shall include the ability of the probation department to
55 conduct a risk and needs assessment, utilizing a validated risk assess-
56 ment tool, in order to help determine suitable and individualized

1 programming and referrals. Participation in such risk and needs assess-
2 ment shall be voluntary and the adolescent offender or juvenile offender
3 may be accompanied by counsel during any such assessment. The local
4 probation department shall make reasonable and substantial efforts to
5 secure the participation of the parent or other person responsible for
6 the care of the juvenile offender or adolescent offender in the risk and
7 needs assessment but shall not be prevented from proceeding by the
8 absence of such parent or person. Based upon the assessment findings,
9 the probation department shall refer the adolescent offender or juvenile
10 offender to available and appropriate services.

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

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

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