STATE OF NEW YORK

6533

2019-2020 Regular Sessions

IN SENATE

June 15, 2019

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

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 a manner consistent 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 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**

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

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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~~] **a manner consistent** 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. 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.