

# STATE OF NEW YORK

7262

2021-2022 Regular Sessions

## IN SENATE

June 25, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the criminal procedure law and the family court act, in relation to admissibility of statements obtained from persons under eighteen years of age by means of deception

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

1 Section 1. Section 60.45 of the criminal procedure law is amended by  
2 adding a new subdivision 2-a to read as follows:

3 2-a. (a) A confession, admission or other statement by a defendant who  
4 is under eighteen years of age shall be presumed to be involuntarily  
5 made when it is obtained while such defendant is the subject of custo-  
6 dial interrogation:

7 (i) conducted by a public servant at a detention facility, as defined  
8 in paragraph (a) of subdivision three of this section; and

9 (ii) a public servant knowingly engages in deception during such  
10 custodial interrogation.

11 (b) As used in this subdivision, "deception" means the knowing commu-  
12 nication of false facts about evidence or unauthorized statements  
13 regarding leniency made to a respondent by a public servant for the  
14 purpose of eliciting an incriminating response from such respondent.

15 (c) The presumption under paragraph (a) of this subdivision may be  
16 overcome by a preponderance of the evidence that the confession, admis-  
17 sion or other statement was voluntarily given, provided that the burden  
18 of proof in any hearing pursuant to this subdivision shall rest upon the  
19 people.

20 § 2. Section 344.2 of the family court act is amended by adding a new  
21 subdivision 3-a to read as follows:

22 3-a. (a) A confession, admission or other statement by a respondent  
23 who is less than eighteen years of age shall be presumed to be involun-

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

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1 tarily made when it is obtained while such respondent is the subject of  
2 custodial interrogation:

3 (i) conducted by a public servant at a detention facility, as defined  
4 in paragraph (a) of subdivision three of section 60.45 of the criminal  
5 procedure law; and

6 (ii) a public servant knowingly engages in deception during such  
7 custodial interrogation.

8 (b) As used in this subdivision, "deception" means the knowing commu-  
9 nication of false facts about evidence or unauthorized statements  
10 regarding leniency made to a respondent by a public servant for the  
11 purpose of eliciting an incriminating response from such respondent.

12 (c) The presumption under paragraph (a) of this subdivision may be  
13 overcome by a preponderance of the evidence that the confession, admis-  
14 sion or other statement was voluntarily given, provided that the burden  
15 of proof in any hearing pursuant to this subdivision shall rest upon the  
16 people.

17 § 3. This act shall take effect on the ninetieth day after it shall  
18 have become a law.