STATE OF NEW YORK

8252

2021-2022 Regular Sessions

IN ASSEMBLY

August 25, 2021

Introduced by M. of A. JOYNER -- read once and referred to the Committee on Codes

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:

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

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

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

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

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

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

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

3-a. (a) A confession, admission or other statement by a respondent 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.

LBD11763-01-1

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

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

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

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

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

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