

# STATE OF NEW YORK

1193

2021-2022 Regular Sessions

## IN SENATE

January 8, 2021

Introduced by Sens. GIANARIS, BRESLIN, COMRIE, HOYLMAN, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law and the family court act, in relation to requiring law enforcement authorities to advise persons under the age of eighteen years of certain rights when such persons are questioned while in custody

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 4 to read as follows:

3 4. A confession, admission or other statement is "involuntarily made"  
4 by a defendant, who is under eighteen years of age, when it is obtained  
5 from him or her while he or she is subject to a custodial interrogation  
6 by a public servant engaged in law enforcement activity, prior to such  
7 public servant:

8 (a) continuously reading, in its entirety, to the defendant, without  
9 stopping for purposes of a response from the defendant or verifying  
10 comprehension, the following statement:

11 "You have the right to remain silent. That means, you do not have to  
12 say anything. Anything you say can be used against you in court. You  
13 have the right to get help from a lawyer. If you cannot pay a lawyer,  
14 the court will get you one for free. You have the right to stop this  
15 interview at any time."; and

16 (b) after reading the statement required by paragraph (a) of this  
17 subdivision, asking the defendant the following questions and waiting  
18 for the defendant's response thereto for each question:

19 "Do you want to talk to me?

20 Do you want to have a lawyer?".

21 § 2. Subdivision 4 of section 344.2 of the family court act, as renum-  
22 bered by section 2 of part VVV of chapter 59 of the laws of 2017, is

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

LBD03166-01-1

1 renumbered subdivision 5 and a new subdivision 4 is added to read as  
2 follows:

3 4. A confession, admission or other statement is "involuntarily made"  
4 by a respondent when it is obtained from him or her while he or she is  
5 subject to a custodial interrogation by a public servant engaged in law  
6 enforcement activity, prior to such public servant:

7 (a) continuously reading, in its entirety, to the respondent, without  
8 stopping for purposes of a response from the respondent or verifying  
9 comprehension, the following statement:

10 "You have the right to remain silent. That means, you do not have to  
11 say anything. Anything you say can be used against you in court. You  
12 have the right to get help from a lawyer. If you cannot pay a lawyer,  
13 the court will get you one for free. You have the right to stop this  
14 interview at any time."; and

15 (b) after reading the statement required by paragraph (a) of this  
16 subdivision, asking the respondent the following questions and waiting  
17 for the respondent's response thereto for each question:

18 "Do you want to talk to me?

19 Do you want to have a lawyer?".

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