

STATE OF NEW YORK

1063--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

Introduced by M. of A. BICHOTTE HERMELYN, WILLIAMS, GIBBS, MEEKS, SIMON, DICKENS, SHIMSKY -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law and the social services law, in relation to ensuring that parents and guardians of youth up to age 19 are notified when their child is arrested

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

1 Section 1. This act shall be known and may be cited as the "family
2 notification and protection act".

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

6 7. Upon arresting a juvenile offender [~~or~~], adolescent offender, or
7 youth as defined in subdivision one of section 720.10 of this chapter,
8 the police officer shall immediately notify the parent or other person
9 legally responsible for [~~his~~] their care or the person with whom [~~he is~~]
10 they are domiciled, that the juvenile offender [~~or~~], adolescent
11 offender, or youth has been arrested, and the location of the facility
12 where [~~he is~~] they are being detained, provided that the police officer
13 need not notify the parent or other person legally responsible for such
14 youth's care or the person with whom they are domiciled when such youth
15 is not also a juvenile offender and the notification of a parent or
16 other person would endanger the health or safety of such youth.

17 § 3. Subdivisions 1, 2 and 6 of section 140.20 of the criminal proce-
18 dure law, subdivision 1 as amended by chapter 549 of the laws of 1987,
19 paragraphs (a) and (b) of subdivision 1 as amended by chapter 23 of the
20 laws of 2024, paragraph (c) of subdivision 1 as separately amended by
21 chapter 382 of the laws of 1987, paragraph (d) of subdivision 1 as

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

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1 amended and paragraph (e) as added by chapter 492 of the laws of 2016,
2 subdivision 2 as amended by section 3 of subpart B of part VV of chapter
3 56 of the laws of 2023, the opening paragraph of subdivision 2 as sepa-
4 rately amended by chapter 23 of the laws of 2024, and subdivision 6 as
5 amended by section 20 of part WWW of chapter 59 of the laws of 2017, are
6 amended to read as follows:

7 1. Upon arresting a person without a warrant, a police officer, after
8 performing without unnecessary delay all recording, fingerprinting and
9 other preliminary police duties required in the particular case, must
10 except as otherwise provided in this section, without unnecessary delay
11 bring the arrested person or cause ~~[him]~~ the arrested person to be
12 brought before a local criminal court and file therewith an appropriate
13 accusatory instrument charging ~~[him]~~ them with the offense or offenses
14 in question. The arrested person must be brought to the particular local
15 criminal court, or to one of them if there be more than one, designated
16 in section 100.55 of this title as an appropriate court for commencement
17 of the particular action; except that:

18 (a) If the arrest is for an offense other than a class A, B, C or D
19 felony or a violation of section 130.25, former section 130.40, section
20 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a town,
21 but not in a village thereof having a village court, and the town court
22 of such town is not available at the time, the arrested person may be
23 brought before the local criminal court of any village within such town
24 or, any adjoining town, village embraced in whole or in part by such
25 adjoining town, or city of the same county; and

26 (b) If the arrest is for an offense other than a class A, B, C or D
27 felony or a violation of section 130.25, former section 130.40, section
28 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a village
29 having a village court and such court is not available at the time, the
30 arrested person may be brought before the town court of the town embrac-
31 ing such village or any other village court within such town, or, if
32 such town or village court is not available either, before the local
33 criminal court of any adjoining town, village embraced in whole or in
34 part by such adjoining town, or city of the same county; and

35 (c) If the arrest is for an offense committed in a city, and the city
36 court thereof is not available at the time, the arrested person may be
37 brought before the local criminal court of any adjoining town or
38 village, or village court embraced by an adjoining town, within the same
39 county as such city; and

40 (d) If the arrest is for a traffic infraction or for a misdemeanor
41 relating to traffic, the police officer may, instead of bringing the
42 arrested person before the local criminal court of the political subdivi-
43 sion or locality in which the offense was allegedly committed, bring
44 ~~[him or her]~~ them before the local criminal court of the same county
45 nearest available by highway travel to the point of arrest; and

46 (e) If the arrested person is at least sixteen years old and less than
47 nineteen years old, and if the arrest is for a non-violent class B, C,
48 or D felony (except 125.12, 263.05, 263.10, 263.15, 263.30, or 470.23)
49 or a violation of section 130.25, former section 130.40, 205.10, 205.17,
50 205.19 or 215.56 of the penal law, and the local criminal court is not
51 available the officer shall make every reasonable effort to give notice
52 to the parent, or other person legally responsible for their care or the
53 person with whom they are domiciled; or

54 (f) Notwithstanding any other provision of this section, where a local
55 criminal court in the county in which the defendant is arrested is oper-
56 ating an off-hours arraignment part designated in accordance with para-

graph (w) of subdivision one of section two hundred twelve of the judiciary law at the time of defendant's arrest, the arrested person may be brought before such local criminal court.

2. If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, or other than where an arrest is required to be made pursuant to subdivision four of section 140.10 of this article, the arrested person need not be brought before a local criminal court as provided in subdivision one of this section, and the procedure may instead be as follows:

(a) A police officer may issue and serve an appearance ticket upon the arrested person and release ~~[him]~~ them from custody, as prescribed in subdivision two of section 150.20 of this title; or

(b) The desk officer in charge at a police station, county jail or police headquarters, or any of ~~[his]~~ their superior officers, may, in such place fix pre-arraignment bail and, upon deposit thereof, issue and serve an appearance ticket upon the arrested person and release ~~[him]~~ them from custody.

If the arrested person is older than sixteen years old but less than nineteen years old, the officer shall follow the procedure as prescribed in paragraph (f) of subdivision one of this section.

6. Upon arresting a juvenile offender ~~[or]~~, a person sixteen or commencing October first, two thousand nineteen, seventeen years of age, or youth as defined in subdivision one of section 720.10 of this chapter without a warrant, the police officer shall immediately notify the parent or other person legally responsible for ~~[his or her]~~ their care or the person with whom ~~[he or she is]~~ they are domiciled, that such offender or person has been arrested, and the location of the facility where ~~[he or she is]~~ they are being detained, provided that the police officer need not notify the parent or other person legally responsible for such youth's care or the person with whom they are domiciled when such youth is not also a juvenile offender and the notification of a parent or other person would endanger the health or safety of such youth, however the police officer must make every reasonable effort to contact an adult family member or an unrelated adult over the age of twenty-five. If the officer determines that it is necessary to question a juvenile offender, youth, or such person, the officer must take ~~[him or her]~~ them to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile offender, youth or such person, to ~~[his or her]~~ their residence and there question ~~[him or her]~~ such juvenile offender, youth, or such person for a reasonable period of time. A juvenile offender, youth, or such person shall not be questioned pursuant to this section unless ~~[he or she]~~ they and a person required to be notified pursuant to this subdivision, if present, have been advised:

(a) of the juvenile offender's, youth's, or such person's right to remain silent;

(b) that the statements made by ~~[him or her]~~ such juvenile offender, youth, or such person may be used in a court of law;

(c) of ~~[his or her]~~ such juvenile offender's, youth's, or such person's right to have an attorney present at such questioning; and

(d) of ~~[his or her]~~ such juvenile offender's, youth's, or such person's right to have an attorney provided for ~~[him or her]~~ such juvenile offender, youth, or such person without charge if ~~[he or she]~~ such juvenile offender, youth, or such person is unable to afford counsel.

1 In determining the suitability of questioning and determining the
2 reasonable period of time for questioning such a juvenile offender,
3 youth, or person, [~~his or her~~] such juvenile offender's, youth's, or
4 such person's age, the presence or absence of [~~his or her~~] such juvenile
5 offender's, youth's, or such person's parents or other persons legally
6 responsible for [~~his or her~~] such juvenile offender's, youth's, or such
7 person's care and notification pursuant to this subdivision shall be
8 included among relevant considerations.

9 § 4. Subdivisions 1 and 2 of section 447-a of the social services law,
10 subdivision 1 as amended by chapter 189 of the laws of 2018, paragraphs
11 (c) and (d) of subdivision 1 as amended by chapter 23 of the laws of
12 2021, and subdivision 2 as amended by section 8 of part M of chapter 56
13 of the laws of 2017, are amended to read as follows:

14 1. The term "sexually exploited child" means any person under the age
15 of [~~eighteen~~] nineteen who has been subject to sexual exploitation
16 because [~~he or she~~] they:

17 (a) [~~is~~] are the victim of the crime of sex trafficking as defined in
18 section 230.34 of the penal law or the crime of sex trafficking of a
19 child as defined in section 230.34-a of the penal law;

20 (b) [~~engages~~] engage in any act as defined in section 230.00 of the
21 penal law;

22 (c) [~~is~~] are a victim of the crime of compelling prostitution as
23 defined in section 230.33 of the penal law; or

24 (d) [~~engages~~] engage in acts or conduct described in article two
25 hundred sixty-three of the penal law.

26 2. The term "short-term safe house" means a residential facility oper-
27 ated by an authorized agency as defined in subdivision ten of section
28 three hundred seventy-one of this article including a residential facil-
29 ity operating as part of a runaway and homeless youth crisis services
30 program as defined in subdivision four of section five hundred thirty-
31 two-a of the executive law or a not-for-profit agency with experience in
32 providing services to sexually exploited youth and approved in accord-
33 ance with the regulations of the office of children and family services
34 that provides emergency shelter, services and care to sexually exploited
35 children including food, shelter, clothing, medical care, counseling and
36 appropriate crisis intervention services at the time they are taken into
37 custody by law enforcement and for the duration of any legal proceeding
38 or proceedings in which they are either the complaining witness or the
39 subject child. The short-term safe house shall also be available at the
40 point in time that a child under the age of [~~eighteen~~] nineteen has
41 first come into the custody of juvenile detention officials, law
42 enforcement, local jails or the local commissioner of social services or
43 is residing with the local runaway and homeless youth authority.

44 § 5. This act shall take effect on the first of November next succeed-
45 ing the date on which it shall have become a law; provided, however,
46 that if chapter 23 of the laws of 2024 shall not have taken effect on or
47 before such date then the amendments to paragraphs (a) and (b) of subdivi-
48 sion 1 and the opening paragraph of subdivision 2 of section 140.20 of
49 the criminal procedure law as amended by section three of this act shall
50 take effect on the same date and in the same manner as such chapter of
51 the laws of 2024 takes effect.