

STATE OF NEW YORK

878

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. BAILEY, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KRUEGER, LIU, MAY, MAYER, MYRIE, PARKER, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO, STAVISKY, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act and the criminal procedure law, in relation to the custodial interrogation of juveniles by law enforcement

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

1 Section 1. Subdivision 3 of section 305.2 of the family court act, as
2 added by chapter 920 of the laws of 1982, is amended to read as follows:

3 3. If an officer takes such child into custody or if a child is deliv-
4 ered to [~~him~~] an officer under section 305.1, [~~he~~] the officer shall
5 immediately, before transporting the child to the police station house,
6 notify the parent or other person legally responsible for the child's
7 care, or if such legally responsible person is unavailable the person
8 with whom the child resides, that the child has been taken into custody.

9 § 2. Paragraph (a) of subdivision 4 of section 305.2 of the family
10 court act, as added by chapter 920 of the laws of 1982, is amended to
11 read as follows:

12 (a) when the officer reasonably believes such parent or other person
13 legally responsible for the child's care will appear, take the child to
14 the child's home, the station house, or another location agreed upon
15 with the parent or person legally responsible, and release the child to
16 the custody of [~~his parents or other person legally responsible for his~~
17 ~~care~~] such person upon the issuance in accordance with section 307.1 of
18 a family court appearance ticket to the child and the person to whose
19 custody the child is released; or

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

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§ 3. Paragraph (b) of subdivision 4 of section 305.2 of the family court act, as amended by section 63 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

(b) when the officer does not reasonably believe the parent or other person legally responsible for the child's care will appear for the child, forthwith and with all reasonable speed take the child directly, and without [~~his~~] the child first being taken to the police station house, to the family court located in the county in which the act occasioning the taking into custody allegedly was committed, or, when the family court is not in session, to the most accessible magistrate, if any, designated by the appellate division of the supreme court in the applicable department to conduct a hearing under section 307.4 [~~of this part, unless the officer determines that it is necessary to question the child, in which case he or she may take the child 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 child, to the child's residence and there question him or her for a reasonable period of time~~]; or

§ 4. Paragraph (c) of subdivision 4 of section 305.2 of the family court act, as amended by section 3 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

(c) when the officer does not release the child pursuant to paragraph (a) of this subdivision, or take the child to family court or to a magistrate pursuant to paragraph (b) of this subdivision, take the child to a place certified by the office of children and family services as a juvenile detention facility for the reception of children; or

§ 5. Subdivision 5 of section 305.2 of the family court act, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

5. If such child has allegedly committed a designated felony act as defined in subdivision eight of section 301.2, and the family court in the county is in session, the officer shall forthwith take the child directly to such family court[, ~~unless the officer takes the child to a facility for questioning in accordance with paragraph (b) of subdivision four. If such child has not allegedly committed a designated felony act and such family court is in session, the officer shall either forthwith take the child directly to such family court, unless the officer takes the child to a facility for questioning in accordance with paragraph (b) of subdivision four or release the child in accordance with paragraph (a) of subdivision four~~] or, when the family court is not in session, to the most accessible magistrate, if any, designated by the appellate division of the supreme court in the applicable department to conduct a hearing under section 307.4.

§ 6. Subdivision 6 of section 305.2 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

6. [~~In all other cases~~] If such child has not allegedly committed a designated felony act, and in the absence of special circumstances, the officer shall release the child in accordance with paragraph (a) of subdivision four.

§ 7. Subdivisions 7 and 8 of section 305.2 of the family court act, subdivision 7 as amended by chapter 398 of the laws of 1983 and subdivision 8 as amended by chapter 299 of the laws of 2020, are amended and a new subdivision 10 is added to read as follows:

7. If the officer determines that questioning of the child is necessary prior to taking action authorized by subdivision four or five, the

officer may take the child 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 child, to the child's residence and there, subject to the requirements of subdivision eight, question the child for a reasonable period of time.

8. A child shall not be questioned pursuant to this section unless ~~[he]~~ or until:

(a) the child and a person required to be notified pursuant to subdivision three if present, have been advised:

~~[(a)]~~ (i) of the child's right to remain silent;

~~[(b)]~~ (ii) that the statements made by the child may be used in a court of law;

~~[(c)]~~ (iii) of the child's right to have an attorney present at such questioning; and

~~[(d)]~~ (iv) of the child's right to have an attorney provided for ~~[him]~~ them without charge if ~~[he-is]~~ they are indigent; and

(b) the child has consulted with legal counsel in person, by telephone, or by video conference. This consultation may not be waived.

~~[8-]~~ 9. 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]~~ the child's parents or other persons legally responsible for ~~[his-or-her]~~ the child's care, 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 subdivision five-a of this section shall be included among relevant considerations.

10. In addition to statements that must be suppressed as involuntarily made within the definition in subdivision two of section 344.2, a statement shall be suppressed: when the child has not consulted with legal counsel as required by paragraph (b) of subdivision eight; or when a person notified pursuant to subdivision three, if present, has not been advised of and voluntarily waived the rights delineated in paragraph (a) of subdivision eight.

§ 8. Section 724 of the family court act, the section heading and subdivisions (b) and (c) as amended by chapter 843 of the laws of 1980, subdivision (a) as amended by chapter 920 of the laws of 1982, paragraphs (i) and (ii) as amended and paragraph (iv) of subdivision (b) as added by section 4 of part E of chapter 57 of the laws of 2005, paragraph (iii) of subdivision (b) as amended by section 7 of part M of chapter 56 of the laws of 2017, and subdivision (d) as added by chapter 809 of the laws of 1963, is amended to read as follows:

§ 724. Duties of police officer or peace officer after taking into custody or on delivery by private person. (a) If a peace officer or a police officer takes into custody or if a person is delivered to ~~[him]~~ the officer under section seven hundred twenty-three, the officer shall immediately, before transporting the child to any other location, notify the parent or other person legally responsible for ~~[his]~~ the person's care, or the person with whom ~~[he]~~ the person is domiciled, that ~~[he]~~ the person has been taken into custody.

(b) After making every reasonable effort to give notice under ~~[paragraph]~~ subdivision (a) of this section, the officer shall

(i) when the officer reasonably believes such parent or other person legally responsible for the child's care will appear, take the child to

1 the child's home, the police station house, or another location agreed
2 upon with the parent or person legally responsible, and release the
3 youth to the custody of [~~his or her parent or other~~] such person [~~legal-~~
4 ~~ly responsible for his or her care~~] upon the written promise, without
5 security, of the person to whose custody the youth is released that [~~he~~
6 ~~or she~~] such person will produce the youth before the lead agency desig-
7 nated pursuant to section seven hundred thirty-five of this article in
8 that county at a time and place specified in writing; or

9 (ii) when the officer does not reasonably believe such parent or other
10 person legally responsible for the child's care will appear for the
11 child, forthwith and with all reasonable speed take the youth directly,
12 and without first being taken to the police station house, to the desig-
13 nated lead agency located in the county in which the act occasioning the
14 taking into custody allegedly was done[, ~~unless the officer determines~~
15 ~~that it is necessary to question the youth, in which case he or she may~~
16 ~~take the youth to a facility designated by the chief administrator of~~
17 ~~the courts as a suitable place for the questioning of youth or, upon the~~
18 ~~consent of a parent or other person legally responsible for the care of~~
19 ~~the youth, to the youth's residence and there question him or her for a~~
20 ~~reasonable period of time~~]; or

21 (iii) take a youth in need of crisis intervention or respite services
22 to a runaway and homeless youth crisis services program or other
23 approved respite or crisis program; or

24 (iv) take the youth directly to the family court located in the county
25 in which the act occasioning the taking into custody was allegedly done,
26 provided that the officer affirms on the record that [~~he or she~~] the
27 officer attempted to exercise the options identified in paragraphs (i),
28 (ii) and (iii) of this subdivision, was unable to exercise these
29 options, and the reasons therefor.

30 (c) In the absence of special circumstances, the officer shall release
31 the child in accord with paragraph [~~(b)~~] (i) of subdivision (b) of this
32 section.

33 (d) If the officer determines that questioning of the child is neces-
34 sary prior to taking action authorized by subdivision (b) of this
35 section, the officer may take the child to a facility designated by the
36 chief administrator of the courts as a suitable place for the question-
37 ing of children or, upon the consent of a parent or other person legally
38 responsible for the care of the child, to the child's residence and
39 there, subject to the requirements of subdivision (e) of this section,
40 question the child for a reasonable period of time.

41 (e) In determining the suitability of questioning and determining what
42 is a "reasonable period of time" for questioning a child, the child's
43 age [~~and~~], the presence or absence of [~~his~~] the child's parents or other
44 person legally responsible for [~~his~~] the child's care and notification
45 pursuant to subdivision (a) of this section shall be included among the
46 relevant considerations.

47 (f) No statement made to a peace officer or a police officer prior to
48 the commencement of a fact-finding hearing may be admitted into evidence
49 at a fact-finding hearing.

50 § 9. Subdivision 6 of section 140.20 of the criminal procedure law, as
51 amended by section 20 of part WW of chapter 59 of the laws of 2017, is
52 amended to read as follows:

53 6. (a) Upon arresting a juvenile offender or a person sixteen or
54 [~~commencing October first, two thousand nineteen,~~] seventeen years of
55 age without a warrant, the police officer shall immediately, before
56 transporting the child to the police station house, notify the parent or

1 other person legally responsible for ~~[his or her]~~ the child's care or
2 the person with whom ~~[he or she]~~ the child is domiciled, that such juve-
3 nile offender or ~~[person]~~ sixteen or seventeen year old has been
4 arrested, and the location of the facility where ~~[he or she is being]~~
5 the child will be detained.

6 (b) If the officer determines that it is necessary to question a juve-
7 nile offender or ~~[such person]~~ sixteen or seventeen year old, the offi-
8 cer must take ~~[him or her]~~ the juvenile offender or sixteen or seventeen
9 year old to a facility designated by the chief administrator of the
10 courts as a suitable place for the questioning of children or, upon the
11 consent of a parent or other person legally responsible for the care of
12 the juvenile or ~~[such person]~~ sixteen or seventeen year old, to ~~[his or~~
13 ~~her]~~ the juvenile offender or sixteen or seventeen year old's residence
14 and there, subject to the requirements of paragraph (c) of this subdivi-
15 sion, question ~~[him or her]~~ the juvenile offender or sixteen or seven-
16 teen year old for a reasonable period of time.

17 (c) A juvenile offender or ~~[such person]~~ sixteen or seventeen year old
18 shall not be questioned pursuant to this section unless or until:

19 (i) ~~[he or she]~~ the juvenile offender or sixteen or seventeen year old
20 and a person required to be notified pursuant to paragraph (a) of this
21 subdivision, if present, have been advised:

22 ~~[(a)]~~ (A) of the juvenile offender's or ~~[such person's]~~ sixteen or
23 seventeen year old's right to remain silent;

24 ~~[(b)]~~ (B) that the statements made by ~~[him or her]~~ the juvenile offen-
25 der or sixteen or seventeen year old may be used in a court of law;

26 ~~[(c)]~~ (C) of ~~[his or her]~~ the juvenile offender or sixteen or seven-
27 teen year old's right to have an attorney present at such questioning;
28 and

29 ~~[(d)]~~ (D) of ~~[his or her]~~ the juvenile offender or sixteen or seven-
30 teen year old's right to have an attorney provided for ~~[him or her]~~ them
31 without charge if ~~[he or she is]~~ they are unable to afford counsel~~[-]~~;

32 (ii) the juvenile offender or sixteen or seventeen year old has
33 consulted with an attorney in person, by telephone, or by video confer-
34 ence. This consultation may not be waived.

35 (d) In determining the suitability of questioning and determining the
36 reasonable period of time for questioning such a juvenile offender or
37 ~~[person]~~ sixteen or seventeen year old, ~~[his or her]~~ the juvenile offen-
38 der or sixteen or seventeen year old's age, the presence or absence of
39 ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's
40 parents or other persons legally responsible for ~~[his or her]~~ the juve-
41 nile offender or sixteen or seventeen year old's care and notification
42 pursuant to paragraph (a) of this subdivision shall be included among
43 relevant considerations.

44 (e) In addition to statements that must be suppressed as involuntarily
45 made within the definition in subdivision two of section 60.45 of this
46 chapter, a statement shall be suppressed: when the child has not
47 consulted with an attorney as required by paragraph (c) of this subdivi-
48 sion; or when a person notified pursuant to paragraph (a) of this subdivi-
49 vision, if present, has not been advised of and voluntarily waived the
50 rights delineated in paragraph (c) of this subdivision.

51 § 10. Subdivision 5 of section 140.27 of the criminal procedure law,
52 as amended by section 23 of part WWW of chapter 59 of the laws of 2017,
53 is amended to read as follows:

54 5. (a) Upon arresting a juvenile offender or a person sixteen or
55 ~~[commencing October first, two thousand nineteen,~~ seventeen years of
56 age without a warrant, the peace officer shall immediately, before

1 transporting the child to the police station house, notify the parent or
2 other person legally responsible for [~~his or her~~] the juvenile offender
3 or sixteen or seventeen year old's care or the person with whom [~~he or~~
4 ~~she~~] the juvenile offender or sixteen or seventeen year old is domi-
5 ciled, that such juvenile offender or [~~person~~] sixteen or seventeen year
6 old has been arrested, and the location of the facility where [~~he or she~~
7 ~~is being~~] the juvenile offender or sixteen or seventeen year old will be
8 detained.

9 (b) If the officer determines that it is necessary to question a juve-
10 nile offender or [~~such person~~] sixteen or seventeen year old, the offi-
11 cer must take [~~him or her~~] the juvenile offender or sixteen or seventeen
12 year old to a facility designated by the chief administrator of the
13 courts as a suitable place for the questioning of children or, upon the
14 consent of a parent or other person legally responsible for the care of
15 a juvenile offender or [~~such person~~] sixteen or seventeen year old, to
16 [~~his or her~~] the juvenile offender or sixteen or seventeen year old's
17 residence and there, subject to the requirements of paragraph (c) of
18 this subdivision, question [~~him or her~~] the juvenile offender or sixteen
19 or seventeen year old for a reasonable period of time.

20 (c) A juvenile offender or [~~such person~~] sixteen or seventeen year old
21 shall not be questioned pursuant to this section unless or until:

22 (i) the juvenile offender or [~~such person~~] sixteen or seventeen year
23 old and a person required to be notified pursuant to paragraph (a) of
24 this subdivision, if present, have been advised:

25 [~~(a)~~] (A) of [~~his or her~~] the juvenile offender or sixteen or seven-
26 teen year old's right to remain silent;

27 [~~(b)~~] (B) that the statements made by the juvenile offender or [~~such~~
28 ~~person~~] sixteen or seventeen year old may be used in a court of law;

29 [~~(c)~~] (C) of [~~his or her~~] the juvenile offender or sixteen or seven-
30 teen year old's right to have an attorney present at such questioning;
31 and

32 [~~(d)~~] (D) of [~~his or her~~] the juvenile offender or sixteen or seven-
33 teen year old's right to have an attorney provided for [~~him or her~~] the
34 juvenile offender or sixteen or seventeen year old without charge if [~~he~~
35 ~~or she~~] the juvenile offender or sixteen or seventeen year old is
36 unable to afford counsel[-]; and

37 (ii) the juvenile offender or sixteen or seventeen year old has
38 consulted with an attorney in person, by telephone or by video confer-
39 ence. This consultation may not be waived.

40 (d) In determining the suitability of questioning and determining the
41 reasonable period of time for questioning such a juvenile offender or
42 [~~such person his or her~~] sixteen or seventeen year old, the juvenile
43 offender or sixteen or seventeen year old's age, the presence or absence
44 of [~~his or her~~] the juvenile offender or sixteen or seventeen year old's
45 parents or other persons legally responsible for [~~his or her~~] the juve-
46 nile offender or sixteen or seventeen year old's care and notification
47 pursuant to paragraph (a) of this subdivision shall be included among
48 relevant considerations.

49 (e) In addition to statements that must be suppressed as involuntarily
50 made within the definition in subdivision two of section 60.45 of this
51 chapter, a statement shall be suppressed: when the child has not
52 consulted with an attorney as required by paragraph (c) of this subdivi-
53 sion; or when a person notified pursuant to paragraph (a) of this subdivi-
54 vision, if present, has not been advised of and voluntarily waived the
55 rights delineated in paragraph (c) of this subdivision.

§ 11. Subdivision 5 of section 140.40 of the criminal procedure law, as amended by section 24 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

5. (a) If a police officer takes an arrested juvenile offender or a person sixteen or ~~[commencing October first, two thousand nineteen,~~ seventeen years of age into custody, the police officer shall immediately, before transporting the child to the police station house notify the parent or other person legally responsible for ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's care or the person with whom ~~[he or she]~~ the juvenile offender or sixteen or seventeen year old is domiciled, that such juvenile offender or ~~[person]~~ sixteen or seventeen year old has been arrested, and the location of the facility where ~~[he or she is being]~~ the juvenile offender or sixteen or seventeen year old will be detained.

(b) If the officer determines that it is necessary to question a juvenile offender or ~~[such person]~~ sixteen or seventeen year old the officer must take ~~[him or her]~~ the juvenile offender or sixteen or seventeen year old 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 or ~~[such person]~~ sixteen or seventeen year old, to ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's residence and there, subject to the requirements of paragraph (c) of this subdivision, question ~~[him or her]~~ the juvenile offender or sixteen or seventeen year old for a reasonable period of time.

(c) A juvenile offender or ~~[such person]~~ sixteen or seventeen year old shall not be questioned pursuant to this section unless or until:

(i) ~~[he or she]~~ the juvenile offender or sixteen or seventeen year old and a person required to be notified pursuant to paragraph (a) of this subdivision, if present, have been advised:

~~[(a)]~~ (A) of ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's right to remain silent;

~~[(b)]~~ (B) that the statements made by the juvenile offender or ~~[such person]~~ sixteen or seventeen year old may be used in a court of law;

~~[(c)]~~ (C) of ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's right to have an attorney present at such questioning; and

~~[(d)]~~ (D) of ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's right to have an attorney provided for ~~[him or her]~~ them without charge if ~~[he or she is]~~ they are unable to afford counsel~~[-];~~ and

(ii) the juvenile offender or sixteen or seventeen year old has consulted with an attorney in person, by telephone, or by video conference. This consultation may not be waived.

(d) In determining the suitability of questioning and determining the reasonable period of time for questioning such a juvenile offender or ~~[such person]~~ sixteen or seventeen year old, ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's age, the presence or absence of ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's parents or other persons legally responsible for ~~[his or her]~~ the juvenile offender or sixteen or seventeen year old's care and notification pursuant to paragraph (a) of this subdivision shall be included among relevant considerations.

(e) In addition to statements that must be suppressed as involuntarily made within the definition in subdivision two of section 60.45 of this chapter, a statement shall be suppressed: when the child has not

1 consulted with an attorney as required by paragraph (c) of this subdivi-
2 sion; or when a person notified pursuant to paragraph (a) of this subdivi-
3 vision, if present, has not been advised of and voluntarily waived the
4 rights delineated in paragraph (c) of this subdivision.
5 § 12. This act shall take effect April 1, 2026.