**§ 305.2. Custody by a peace officer or a police officer without a warrant.** 1. For purposes of this section, the word "officer" means a peace officer or a police officer.

2. An officer may take a child who may be subject to the provisions of this article for committing an act that would be a crime if committed by an adult into custody without a warrant in cases in which the officer may arrest a person for a crime under article one hundred forty of the criminal procedure law.

3. If an officer takes such child into custody or if a child is delivered to him under section 305.1, he shall immediately notify the parent or other person legally responsible for the child's care, or if such legally responsible person is unavailable the person with whom the child resides, that the child has been taken into custody.

4. After making every reasonable effort to give notice under subdivision three, the officer shall:

(a) release the child to the custody of his parents or other person legally responsible for his care upon the issuance in accordance with section 307.1 of a family court appearance ticket to the child and the person to whose custody the child is released; or

(b) forthwith and with all reasonable speed take the child directly, and without his 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

(c) 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

(d) take the child who such officer has decided to take into custody in accordance with this section or section 305.1 of this part for violating the provisions of section 230.00 of the penal law, to an available short-term safe house as defined in subdivision two of section four hundred forty-seven-a of the social services law; or

(e) take the child, if it appears that such child is a sexually exploited child as defined in paragraph (a), (c) or (d) of subdivision one of section four hundred forty-seven-a of the social services law, to an available short-term safe house, but only if the child consents to be taken.

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.

5-a. Where a child is subject to interrogation at a facility designated by the chief administrator of the courts as a suitable place for the questioning of juveniles pursuant to subdivision four of this section, the entire interrogation, including the giving of any required notice to the child as to his or her rights and the child's waiver of any rights, shall be video recorded in a manner consistent with standards established by rule of the division of criminal justice services pursuant to paragraph (e) of subdivision three of section 60.45 of the criminal procedure law. The interrogation shall be recorded in a manner such that the persons in the recording are identifiable and the speech is intelligible. A copy of the recording shall be subject to discovery pursuant to section 331.2 of this article.

6. In all other cases, and in the absence of special circumstances, the officer shall release the child in accordance with paragraph (a) of subdivision four.

7. A child shall not be questioned pursuant to this section unless he and a person required to be notified pursuant to subdivision three if present, have been advised:

(a) of the child's right to remain silent;

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

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

(d) of the child's right to have an attorney provided for him without charge if he is indigent.

8. 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 parents or other persons legally responsible for his or her 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.