§ 215-b. Children; adverse information; notification. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "Child" means any person under the age of sixteen;

(b) "Parent" means the birth or adoptive parent, the guardian or other adult having legal responsibility for the child;

(c) "Person" means any individual, partnership, corporation, association or other business entity or any employee thereof which regularly maintains a place of business which is open to the public and which operates or is operated for the purpose of offering for sale, whether at wholesale, retail or otherwise, a consumer commodity for purchase by the public;

(d) "Adverse information file" means any written or other communication of any information with respect to the alleged commission by a child of an act of theft within or directly proximate to any place of business operated by such person which alleged acts had they been committed by an adult would constitute misdemeanor larcenies under the penal law. Any information contained in such file on such child that is likely to have an effect upon the ability or eligibility of such child, either while he is a child or upon attaining a legal status other than a child, to obtain credit, insurance, employment, or other benefits, goods or services for which he may seek shall be deemed to be adverse information within the meaning of such term. Any such information shall be deemed to be adverse without regard to whether any legal action as authorized by the family court act or the penal law was ever commenced against such child with regards to the alleged act of theft;

(e) "Consumer reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in gathering, assembling or evaluating consumer credit information or other information on, about or relating to consumers, employees or potential employees for the purpose of furnishing reports to third parties.

2. Any person who opens or causes to be opened an adverse information file shall:

(a) Open such adverse information file within seven days of the alleged commission of a theft;

(b) Notify a parent of such child by regular mail within seventy-two

hours, exclusive of weekends and holidays, of the time such file is opened, and make known to such parent by such notice that an adverse information file has been opened on his child by such person and such notice shall be accompanied by copies of any documents in the file, including the written statements of admission or denial signed by his child. Such notice shall contain a telephone number for the parent to call to arrange for an appointment and an address to mail additional material for the file. Every person required to make the notification required by this paragraph shall use reasonable diligence and effort to ascertain the proper identity and location of a parent so as to assure that the provisions of this subdivision shall be complied with. In the event that a child divulges a false parent identity or location to a person, the person shall be exempted from the notification requirements of this paragraph unless the person has actual knowledge of the true identity or location of a parent. The notification requirements of this paragraph shall not apply if the child falsely reports or gives false evidence of his age to be sixteen years or over to such person unless the person has actual knowledge that such child is under the age of sixteen. The notification required in this paragraph shall be made without regard to whether any legal action as authorized by the family court act or the penal law was ever commenced against such child with regards to the alleged act of theft;

(c) Further notify the parent of such child in the notification provided for in paragraph (b) of this subdivision that such parent shall have the right to request that a written statement of two hundred and fifty words or less to be prepared by the child or parent relevant to the alleged act of theft be submitted and contained in such adverse information file. Upon such request and submission the written statement shall be attached to and included with such adverse information file.

3. No person shall provide access to, give, forward or make available any adverse information file or any part thereof to any consumer reporting agency.

4. Any person who fails to comply with the requirements of this section applicable to such person shall be liable to the child in an action commenced on behalf of such child in an amount equal to the sum

of:

(a) Any actual damages sustained by the child as a result of any violation of this section;

(b) Such amount of punitive damages as the court may allow; and

(c) In the case of any successful action to enforce any liability under this section together with reasonable attorney's fees as determined by the court.